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SUPREME COURT OF THE UNITED STATES.

No. 59.

MARTHA BRADSTREET, DEMANDANT, PLAINTIFF IN ERROR,

vs.

WILLIAM F. POTTER, TENANT.

IN ERROR TO THE CIRCUIT COURT UNITED STATES FOR THE NORTHERN DISTRICT OF NEW YORK.

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S. D. Langtree, Print.

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UNITED STATES OF AMERICA, *ss.*

The President of the United States of America, to the Judge of the District Court of the United States, for the Northern District of New York, greeting:

Because, in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said District Court before you, or some of you, between Martha Bradstreet, demandant, and William F. Potter, tenant, in a plea of land, a manifest error hath happened, to the great damage of the said Martha Bradstreet as by her complaint appears: We, being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court, together with this writ, so that you have the same at Washington on the second Monday of January next, in the said Supreme Court, to be then and there held; that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right and according to the law and custom of the United States should be done.

Witness the honourable Roger B. Taney, Chief Justice of the Supreme Court of the United States, this eighteenth day of December, in the year of our Lord one thousand eight hundred and forty, and of the Independence of the United States the sixty-fifth.

FRED. J. BETTS,
Clerk of the Circuit Court of the United States, for the Southern District of New York, in the Second Circuit.

Allowed Dec. 18, 1840.

SMITH THOMPSON.

Received this 22d day of December, 1840.

ANSON LITTLE,
Clerk of the Northern District of New York.

DISTRICT COURT OF THE UNITED STATES,
for the Northern District of New York.

MARTHA BRADSTREET, Demandant,
vs.
WILLIAM F. POTTER, Tenant.

UNITED STATES OF AMERICA,
Northern District of New York, ss.

I, Anson Little, clerk of the District Court of the United States of America, for the Northern District of New York, do hereby certify to the Supreme Court of the United States, that the judgment, record, bill of exceptions, and assignment of errors hereunto annexed, are true transcripts of their respective originals remaining on the files of my office in the above entitled cause.

In testimony whereof, I have hereunto subscribed my name and affixed the seal of the said District Court, this twenty-
[L. S.] eigth day of December, in the year of our Lord one thousand eight hundred and forty, and of the Independence of the United States of America the sixty-fifth.

ANSON LITTLE.

By the honourable Smith Thompson, one of the Judges of the Circuit Court of the United States, for the Southern District of New York, in the second circuit—To William F. Potter.

Whereas, Martha Bradstreet lately issued out of the Supreme Court of the United States, a writ of error directed to the Judge of the District Court of the United States, for the Northern District of New York, stating, that in the record and proceedings, as also in the rendition of the judgment of a plea in the said court before the judge thereof, between Martha Bradstreet, demandant, and William F. Potter, tenant, in a plea of land, a manifest error hath happened to the great damage of the said Martha Bradstreet.

And whereas, for the correction of that error in due manner, the said writ has been issued, returnable at the next stated Supreme Court of the United States, at the City of Washington, on the Monday of January next: You are, therefore, hereby cited to appear before the said Supreme Court, at the City of Washington, on the said second Monday of January next, to do and receive what may appertain to justice to be done in the premises.

Given under my hand at the City of New York, in the Southern District of New York, in the second circuit, the eighteenth day of December, in the year of our Lord one thousand eight hundred and forty, and of the Independence of the United States the sixty-fifth.

SMITH THOMPSON.

SUPREME COURT OF THE UNITED STATES.

MARTHA BRADSTREET, Demandant,
vs.
WILLIAM F. POTTER, Tenant.

Martha Bradstreet being duly sworn, deposes and says, that she did on the 22d day of December instant, personally serve on William F. Potter, the above named tenant in error, the within written citation, by shewing him the same, and at the same time delivering him a true copy thereof. And this deponent further says, that she did at the same time deliver to the said William F. Potter a copy of the writ of error issued in this cause, and further says not.

MARTHA BRADSTREET.

Subscribed and sworn to this 23d day of December, A. D. 1840, before me.

ANSON LITTLE, *Clerk*,
And commissioner to take affidavits in the District Court of the United States for the Northern District of New York.

DISTRICT COURT OF THE UNITED STATES OF AMERICA,
For the Northern District of New York.

Pleas before the Judge of the District Court of the United States of America for the Northern District of New York, at the capitol in the city of Albany, in the said District, of the term of January, in the year of our Lord one thousand eight hundred and twenty-five. Witness, the Honorable Roger Skinner, Judge of the said Court. RICHARD R. LANSING, *Clerk*.

Northern District of New York, ss.

Martha Bradstreet, who is an alien, and a subject of the king of the United Kingdom of Great Britain and Ireland, by Edward Livingston, her attorney, demands against William F. Potter the one equal, undivided fourth part of ten messuages, ten gardens, ten shops, ten coach-houses, ten stables, ten out-houses, ten warehouses, and five hundred acres of land, with the appurtenances, in the town of Utica, in the county of Oneida, as her right and inheritance, by the writ of the President of the United States of America, of right. And thereupon the said Martha Bradstreet says, that she was seised of the said one equal, undivided fourth part of the messuages, tenements and land aforesaid, with the appurtenances, in her demesne, as of fee and right, in the time of peace, to wit: within twenty-five years now last past, exclusive of the time during which the said Martha Bradstreet was within the age of twenty-one years, or feme covert, by taking the esplees thereof, to the value, &c. And the said Martha Bradstreet, who

is an alien, and a subject of the king of the United Kingdom of Great Britain and Ireland, demands against William F. Potter the one equal, undivided fourth part of ten messuages, ten gardens, ten shops, ten coach-houses, ten stables, ten out-houses, ten ware-houses, and five hundred acres of land, with the appurtenances, in the town of Utica, in the county of Oneida, as her right and inheritance, by the writ of the President of the United States of America, of right. And thereupon the said Martha Bradstreet says, that Philip Schuyler, deceased, the predecessor of the said Martha Bradstreet, was seised of the said one equal, undivided fourth part of the messuages, tenements and land aforesaid, with the appurtenances, in his demesne, as of fee and right, in the time of peace, to wit: within twenty-five years now last past, exclusive of the time during which the said Martha Bradstreet was within the age of twenty-one years, or feme covert, by taking the esplees thereof, to the value, &c., and died thereof seised. And thereupon the right to the said one equal undivided fourth part above demanded of the said ten messuages, ten gardens, ten shops, ten coach-houses, ten stables, ten out-houses, ten ware-houses, and five hundred acres of land, with the appurtenances, came from the said Philip Schuyler to the said Martha Bradstreet, who now demands the same. And the said Martha Bradstreet, who is an alien and a subject of the king of the United Kingdom of Great Britain and Ireland, demands against William F. Potter the one equal, undivided fourth part of ten messuages, ten gardens, ten shops, ten coach-houses, ten stables, ten out-houses, ten ware-houses, and five hundred acres of land, with the appurtenances, in the town of Utica, in the county of Oneida, as her right and inheritance, by the writ of the President of the United States of America, of right. And thereupon the said Martha Bradstreet says, that Edward Goold, deceased, the predecessor of the said Martha Bradstreet, was seised of the said one equal, undivided fourth part of the messuages, tenements and land aforesaid, with the appurtenances, in his demesne, as of fee and right, in the time of peace, to wit: within twenty-five years now last past, exclusive of the time during which the said Martha Bradstreet was within the age of twenty-one years, or feme covert, by taking the esplees thereof, to the value, &c., and died thereof seised. And thereupon the right to the said one equal, undivided fourth part above demanded of the said ten messuages, ten gardens, ten shops, ten coach-houses, ten stables, ten out-houses, ten ware-houses, and five hundred acres of land, with the appurtenances, came from the said Edward Goold to the said Martha Bradstreet, who now demands the same. And that such is her right, she offers, &c.

And the said William F. Potter, by Erastus Clarke, his attorney, comes and defends the right of the said Martha Bradstreet, when, &c., and prays leave to imparle until the second Tuesday of May next, and he hath it, &c.; saving all objections as well to the juris-

diction of the court as to the writ and count; the same day is given to the said Martha Bradstreet, here, &c.

At which day, to wit, the second Tuesday of May, in the year of our Lord one thousand eight hundred and twenty-five, before the said Judge of the said District Court, at the capitol in the city of Albany, come the parties aforesaid by their attorneys aforesaid; and the said William F. Potter demands a view of the tenements aforesaid, with the appurtenances, and he hath it, &c.

And the said Martha Bradstreet puts in her place John L. Tillinghast, her attorney, in the stead of Edward Livingston, her former attorney, against the said William F. Potter, in the plea aforesaid: A day is given to the said parties at the town of Utica, until the last Tuesday of August next, and in the mean time, &c.

And now at this day, to wit, the last Tuesday of January, in the year of our Lord one thousand eight hundred and twenty-six, until which day the process aforesaid was, pursuant to the statute of the United States in such case made and provided, continued because of the death of the said Roger Skinner, late Judge of the said District Court as aforesaid; before the Honorable Alfred Conkling, now Judge of the said District Court, appointed in the place of the said Roger Skinner, deceased, at the capitol in the city of Albany, come as well the said Martha Bradstreet by John L. Tillinghast, her attorney, as the said William F. Potter in his proper person; and the said William F. Potter puts in his place Charles P. Kirkland, his attorney, in the stead of Erastus Clarke, his former attorney, now deceased, at the suit of the said Martha Bradstreet in the plea aforesaid: And the Marshal of the said Northern District, to wit, John W. Livingston, Esqr., returns to the said writ, that by virtue thereof, he has caused the said William F. Potter, by John Baxter, Leonard Moore, Thomas Goodsell, and John Jay Hinman, four good and lawful men of his District, to have view of the one equal, undivided fourth part of two messuages, two barns and outhouses, with the appurtenances, situate in the town of Utica, in the county of Oneida, in the Northern District of New York, in the occupation of the said Potter, bounded at the centre of Liberty street, at a point where lot No. 97 in Cosby's manor cuts the centre of said street; thence north 36 degrees east along the said easterly line of said lot No. 97 to the Mohawk river; thence along up the river northerly and westerly as it winds and turns to the northwesterly corner of said lot No. 97; thence along the westerly line of said lot No. 97 to a stake, distant 80 links, in a direction north 36 degrees east from a stone set in the ground under the fence in the southerly line of the old road to Whitesboro; thence along the centre of said road to where the centre of the said road intersects the centre of Liberty street; thence to the place of beginning: And thereupon a day is here given to the said Martha Bradstreet, until the second Tuesday of May next, at the capitol in the city of Albany aforesaid, before the Judge of the District Court afore-

said, to count anew against the said tenant, William F. Potter; the same day is given to the said William F. Potter, here, &c.

At which day, before the Judge of the District Court aforesaid, at the capitol in the city of Albany, come the parties aforesaid, by their attorneys aforesaid; and the said Martha Bradstreet, who is an alien, and a subject of the king of the United Kingdom of Great Britain and Ireland, by John L. Tillinghast, her attorney, demands against William F. Potter, who is a citizen of the State of New York, residing in the Northern District of New York, the one equal, undivided fourth part of two messuages, two barns and out-houses, with the appurtenances, situate in the town of Utica, in the county of Oneida, in the Northern District of New York, in the occupation of the said Potter, bounded at the centre of Liberty street, at a point where lot No. 97 in Cosby's manor cuts the centre of said street; thence north 36 degrees east along the said easterly line of said lot No. 97 to the Mohawk river; thence along up the river, northerly and westerly as it winds and turns, to the northwesterly corner of said lot No. 97; thence along the westerly line of said lot No. 97 to a stake, distant 80 links, in a direction north 36 degrees east from a stone set in the ground under the fence in the southerly line of the old road to Whitesboro; thence along the centre of said road to where the centre of the said road intersects the centre of Liberty street; thence to the place of beginning; as her right and inheritance, by the writ of the President of the United States of America, of right. And thereupon the said Martha Bradstreet says, that she was seised of the said one equal, undivided fourth part of the messuages, tenements and land aforesaid, with the appurtenances in her demesne, as of fee and right, in the time of peace, to wit, within twenty-five years now last past, exclusive of the time during which the said Martha Bradstreet was within the age of twenty-one years, or feme covert, by taking the esplees thereof, to the value, &c. And the said Martha Bradstreet, who is an alien, and a subject of the king of the United Kingdom of Great Britain and Ireland, demands against William F. Potter, who is a citizen of the State of New York, residing in the Northern District of New York, the one equal, undivided fourth part of two messuages, two barns and out-houses, with the appurtenances, situate in the town of Utica, in the county of Oneida, in the Northern District of New York, in the occupation of the said Potter, bounded at the centre of Liberty street, at a point where lot No. 97 in Cosby's manor cuts the centre of said street; thence north 36 degrees east along the said easterly line of said lot No. 97 to the Mohawk river; thence along up the river northerly and westerly as it winds and turns, to the northwesterly corner of said lot No. 97; thence along the westerly line of said lot No. 97 to a stake, distant 80 links, in a direction north 36 degrees east from a stone set in the ground under the fence, in the southerly line of the old road to Whitesboro; thence along the centre of said road

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to where the centre of the said road intersects the centre of Liberty street; thence to the place of beginning; as her right and inheritance, by the writ of the President of the United States of America, of right. And thereupon the said Martha Bradstreet says, that Philip Schuyler, deceased, the predecessor of the said Martha Bradstreet, was seised of the said one equal, undivided fourth part of the messuages, tenements and land aforesaid, with the appurtenances, in his demesne, as of fee and right, in the time of peace, to wit, within twenty-five years now last past, exclusive of the time during which the said Martha Bradstreet was within the age of twenty-one years, or feme covert, by taking the esplees thereof, to the value, &c., and died thereof seised. And thereupon the right to the said one equal, undivided fourth part above demanded of the said messuages, tenements and land aforesaid, with the appurtenances, came from the said Philip Schuyler to the said Martha Bradstreet, who now demands the same. And the said Martha Bradstreet, who is an alien and a subject of the king of the United Kingdom of Great Britain and Ireland, demands against William F. Potter, who is a citizen of the State of New York, residing in the Northern District of New York, the one equal, undivided fourth part of two messuages, two barns and out-houses, with the appurtenances, situate in the town of Utica, in the county of Oneida, in the Northern District of New York, in the occupation of the said Potter, bounded at the centre of Liberty street, at a point where lot No. 97 in Cosby's manor cuts the centre of said street; thence north 36 degrees east along the said easterly line of said lot No. 97 to the Mohawk river; thence along up the river northerly and westerly as it winds and turns, to the northwesterly corner of said lot No. 97; thence along the westerly line of said lot No. 97 to a stake distant 80 links, in a direction north 36 degrees east from a stone set in the ground under the fence in the southerly line of the old road to Whitesboro; thence along the centre of said road to where the centre of the said road intersects the centre of Liberty street; thence to the place of beginning; as her right and inheritance, by the writ of the President of the United States of America, of right. And thereupon the said Martha Bradstreet says, that Edward Goold, deceased, the predecessor of the said Martha Bradstreet, was seised of the said one equal, undivided fourth part of the messuages, tenements and land aforesaid, with the appurtenances, in his demesne, as of fee and right, in the time of peace, to wit, within twenty-five years now last past, exclusive of the time during which the said Martha Bradstreet was within the age of twenty-one years, or feme covert, by taking the esplees thereof, to the value, &c., and died thereof seised. And thereupon the right to the said one equal, undivided fourth part above demanded of the messuages, tenements and land aforesaid, with the appurtenances, came from the said Edward Goold to the said Martha Bradstreet, who now demands the same. And that such is her right, she offers, &c.

And thereupon the said William F. Potter prays a day to imparle to the said counts of the said Martha Bradstreet, until the last Tuesday of August next, and then to answer the same, and he hath it, &c.; and upon this a day is given to the parties aforesaid, before the Judge of the District Court aforesaid, at the academy in the town of Utica, in the said District, until the last Tuesday in August next, &c.

At which day, before the Judge of the District Court aforesaid, at the academy in the town of Utica, come the parties aforesaid, by their attorneys aforesaid, and the said William F. Potter prays thereof a further day to imparle to the said counts of the said Martha Bradstreet, until the third Monday of January next, and then to answer the same, &c., and he hath it, &c.; the same day is given to the said Martha Bradstreet, there, &c.

At which day, before the Judge of the District Court aforesaid, at the capitol in the city of Albany, comes the said Martha Bradstreet, by her attorney aforesaid, and the said William F. Potter by Charles P. Kirkland, his attorney, comes and defends the right of the said Martha Bradstreet, and the seisin of the said Martha Bradstreet, in the count of the said Martha Bradstreet, *first* above pleaded, when, &c., and the whole, &c., and whatsoever, &c., and chiefly of the messuages and tenements aforesaid, with the appurtenances in the said first count mentioned as of *fee and right*, &c., and he puts himself on the Grand Assize of *the United States of America;* and he prays a recognition to be made whether he, the said William F. Potter, has a greater title to hold the messuages and tenements aforesaid, with the appurtenances, to him and his heirs as tenants thereof, as he now holds the same; or whether the said Martha Bradstreet has title to hold the same messuages and tenements, with the appurtenances, as in and by the said first count she has above demanded the same, &c.

And the said William F. Potter tenders here into court two dollars to the use of the United States of America, &c., for that, to wit, that it may be inquired, &c., of the time, &c., and he therefore prays that it may be inquired by the Assize whether the said Martha Bradstreet was seised of the messuages and tenements aforesaid, with the appurtenances in the said first count mentioned, in her demesne, as of fee, in the time, &c., as the said Martha Bradstreet in her said first count hath above alleged. And the said Martha Bradstreet doth the like, &c.

And as to the *count* of the said Martha Bradstreet by her *secondly* above pleaded, the said William F. Potter, by Charles P. Kirkland, his said attorney, comes and defends the right, &c., when, &c., and says that the said count so by the said Martha Bradstreet *secondly* above pleaded, and the matters therein contained, in manner and form as the same are above stated and set forth, are not sufficient in the law for the said Martha Bradstreet to have or maintain her aforesaid action thereof against him the said William F. Potter, and that the said William F. Potter is not bound by the

law of the land to answer the same; and this he is ready to verify; wherefore, for want of sufficiency in said *second count* in this behalf, the said William F. Potter prays judgment, and that the said Martha Bradstreet, as to the said *second count*, may be barred from having or maintaining her aforesaid action thereof against him, &c., and the said William F. Potter, according to the form of the statute in such case made and provided, states and shows to the court here, the following causes of demurrer to the said count by the said Martha Bradstreet secondly above pleaded; that is to say, that it does not appear in or by the said count, how or in what manner the said Martha Bradstreet is heir to *Philip Schuyler*, in the said count named; and that it doth not appear in or by the said count, that the said Martha Bradstreet is heir to the said *Philip Schuyler;* and that it doth not appear in or by the said count, in what manner the right to the messuages and tenements, with the appurtenances, in the said count described, came from the said *Philip Schuyler* to the said Martha Bradstreet; and for that the said count is in other respects defective, uncertain, insufficient, and informal.

And as to the count of the said Martha Bradstreet by her *thirdly* above pleaded, the said William F. Potter, by Charles P. Kirkland his said attorney, comes and defends the right, &c., when, &c. and says that the said count so by the said Martha Bradstreet *thirdly* above pleaded, and the matters therein contained, n manner and form as the same are above stated and set forth, are not sufficient in the law for the said Martha Bradstreet to have or maintain her aforesaid action thereof against him the said William F. Potter, and that the said William F. Potter is not bound by the law of the land to answer the same; and this he is ready to verify; wherefore, for want of sufficiency in said *third count* in this behalf, the said William F. Potter prays judgment; and that the said Martha Bradstreet, as to the said *third count*, may be barred from having or maintaining her aforesaid action thereof against him, &c.

And the said William F. Potter, according to the form of the statute in such case made and provided, states and shows to the court here, the following causes of demurrer to the said *count*, by the said Martha Bradstreet, thirdly above pleaded: that is to say, that it doth not appear, in or by the said count, how or in what manner the said Martha Bradstreet is heir to *Edward Goold*, in the said count named; and that it doth not appear, in or by the said count, that the said Martha Bradstreet is heir to the said *Edward Goold;* and that it doth not appear, in or by the said count, in what manner the right to the said messuages and tenements, with the appurtenances, in the said count described, came from the said Edward Goold to the said Martha Bradstreet, and, for that, the said count is in other respect defective, uncertain, insufficient, and informal.

And the said demandant, Martha Bradstreet, who is an alien and a subject of the King of the United Kingdom of Great Britain and Ireland, says, that the said counts of her, the said Martha Bradstreet, by her secondly and thirdly above pleaded, and the matters therein contained, in manner and form as the same are above stated and set forth, are sufficient in law for her the said Martha Bradstreet, to have and maintain her aforesaid action thereof against the said Tenant, William F. Potter, who is a citizen of the State of New-York, residing within the Northern District of New-York; and the said Martha Bradstreet is ready to verify and prove the same as the Court here shall direct and award: Wherefore, inasmuch as the said Tenant, William F. Potter, hath not answered the said second and third counts, nor hitherto in any manner denied the same, the said Martha Bradstreet prays judgment and her seisin against the said William F. Potter, of the said undivided fourth part of the said premises aforesaid, with the appurtenances aforesaid, in the said second and third counts of her the said Martha Bradstreet, secondly and thirdly above pleaded, mentioned; to hold to the said Martha Bradstreet, and her heirs, quit of the said William F. Potter and his heirs forever.

Therefore to try the said Mise above in form aforesaid joined, between the said Martha Bradstreet, demandant, and the said William F. Potter, Tenant, the Marshal is commanded that by good summoners he summon four good and lawful men of his district, that they be before the said Judge of the District Court aforesaid, at the Capitol in the city of Albany aforesaid, on the second Tuesday of May next, to make election of the Grand Assise aforesaid; the same day is given to the parties aforesaid, here, &c.

And as to the matter in law whereof as well the said Martha Bradstreet, demandant, as the said William F. Potter, Tenant, have put themselves upon the judgment of the Court here, a day is given as well to the said Martha Bradstreet, as to the said William F. Potter, before the said Judge of the District Court aforesaid, until the second Tuesday of May next, at the Capitol in the city of Albany aforesaid, to hear judgment of and upon the premises, for that the said District Court here is not yet advised thereof, &c.

At which day before the Judge of the District Court aforesaid, at the Capitol in the city of Albany, come the parties aforesaid, by their attorneys aforesaid; and as to the trial of the said Mise above in form aforesaid joined between the said Martha Bradstreet, Demandant, and the said William F. Potter, Tenant, the Marshal has not sent his writ thereof; therefore as before, the Marshal is commanded that by good summoners he summon four good and lawful men of his district, that they be before the said Judge of the District Court aforesaid, at the Academy in the town of Utica, in the said district, on the last Tuesday in August next, to make the election of the Grand Assise aforesaid; the same day is given to the parties aforesaid, there, &c.

And as to the matter in law, whereof as well the said Martha Brad-

street, Demandant, as the said William F. Potter, Tenant, have put themselves upon the judgment of the Court here, a day is given as well to the said Martha Bradstreet, as to the said William F. Potter, before the said Judge of the said District Court, until the last Tuesday of August next, at the Academy in the town of Utica aforesaid, to hear judgment of and upon the premises, for that the said District Court here is not yet advised thereof, &c.

At which day, before the Judge of the District Court aforesaid, at the Academy in the town of Utica aforesaid, come the parties aforesaid, by their attornies aforesaid, and as the trial of the said Mise above in form aforesaid, joined, between the said Martha Bradstreet, Demandant, and the said William F. Potter, Tenant, the Marshal has not sent his writ thereof; therefore as before, the Marshal is commanded that by good summoners he summon four good and lawful men of his district, that they be before the said Judge of the District Court aforesaid, at the Capitol in the city of Albany, on the third Tuesday of January next, to make the election of the Grand Assise aforesaid; the same day is given to the parties aforesaid, there, &c.

And as to the matter in law, whereof as well the said Martha Bradstreet, Demandant, as the said William F. Potter, Tenant, have put themselves upon the Judgment of the Court, for that it appears to the said Judge of the said District Court here, that the said counts of her the said Martha Bradstreet, by her secondly and thirdly above pleaded, and the matters therein contained, are not sufficient in law for her, the said Martha Bradstreet, to have and maintain her aforesaid action thereof, against the said William F. Potter: THEREFORE IT IS CONSIDERED, that, as to her said counts by her secondly and thirdly above pleaded, the said Martha Bradstreet take nothing by her said writ, but that she and her pledges to prosecute, be in mercy, &c., and that the said William F. Potter do go thereof without day, &c.; and it is further considered by the said District Court before the said Judge thereof now here, that the said William F. Potter do recover against the said Martha Bradstreet his costs upon his said Demurrers in the law to the said counts of the said Martha Bradstreet, by her secondly and thirdly above pleaded as aforesaid, to be taxed.

At which day, to wit, the third Tuesday of January, in the year of our Lord one thousand eight hundred and twenty-eight, before the Judge of the District Court aforesaid, at the Capitol in the city of Albany, come as well the said Martha Bradstreet, Demandant, as the said William F. Potter, Tenant, by their attorneys aforesaid, and the Marshal, to wit, John W. Livingston, Esqr., now returns that he had caused to be summoned William Alverson, Hallenbeck Stafford, James Hinman, and George B. Lisher, four good and lawful men of his district, by good summoners, to be here on the third Tuesday of January aforesaid, to do as the same writ commands and requires; and that the said summoners are and each of them is mainprized by John Doe and Richard Roe; whereupon the said William Alverson, Hallenbeck Stafford, James Hinman and

George B. Lisher, being called, in their proper persons also come, and the said Martha Bradstreet challenges the array of the panel to the said writ annexed, because she says that the electors aforesaid, in the panel aforesaid named, are not duly qualified as electors of the Grand Assise, nor are they indifferent between the parties aforesaid; and because the said William F. Potter cannot deny the challenge aforesaid, by the said Martha Bradstreet as aforesaid made, the said Martha Bradstreet prays that the panel aforesaid, so returned as aforesaid, may be quashed; and hereupon the premises aforesaid being seen, and by the Court here before the aforesaid Judge thereof being fully understood, it is considered that the panel of the electors aforesaid, so returned as aforesaid, be quashed, &c., and with the assent of the said William F. Potter. And upon this the said Martha Bradstreet prays the writ of the President of the United States of America to the Marshal of the District aforesaid to be directed, to summon anew, by good summoners, four good and lawful men of his district, that they be here before the Judge of the District Court aforesaid, on the twenty-first day of this instant month of January, to make election of the Grand Assise aforesaid, &c., and it is granted her, &c., and with the assent of the said William F. Potter, &c. Therefore the Marshal is commanded, that by good summoners he summon four good and lawful men of his district, that they be here before the Judge of the District Court aforesaid, on the twenty-first day of this instant month of January, to make the election of the Grand Assise aforesaid; the same day is given as well to the said Martha Bradstreet as to the said William F. Potter, here, &c.

At which day, before the Judge of the District Court aforesaid, at the Capitol in the city of Albany, come as well the said Martha Bradstreet as the said William F. Potter, by their attorneys aforesaid, and the Marshal, to wit, John W. Livingston, Esqr. now returns that he had caused to be summoned John I. Wendell, Walter Clark, John I. Boyd, and Robert Swain, four good and lawful men of his district, by good summoners, to be here on the twenty-first day of this instant month of January, to do as the same writ commands and requires, and that the said summoners are and each of them is mainprized by John Doe and Richard Roe; whereupon the said John I. Wendell, Walter Clark, John I. Boyd, and Robert Swain, being called, in their proper persons also come, and being severally sworn, in the presence of the parties, lawfully and truly chuse, in the presence of the parties, in addition to themselves, twenty other good and lawful men of the said district, to wit, William Durant, Benjamin Knower, Richard Marvin, Abel French, Edward C. Delavan, Josiah Sherman, David Wood, Elisha W. Skinner, Jeremiah Clark, Jesse Buel, William Cook, James Goold, Henry B. Dauchy, Edward Dwight Lyman, Benjamin Smith, William Akin, Sylvanus Penniman, Henry W. Delavan, David Burhans and Jacob Ten Eyck, who best know and will declare the truth between the parties, and who neither are of kin to

the said Martha Bradstreet, nor to the said William F. Potter, to make recognition of the Grand Assise aforesaid.

And upon this the said Martha Bradstreet prays the writ of the President of the United States of America, to the Marshal of the District aforesaid, to be directed to cause to come before the Judge of the District Court aforesaid, at the Capitol in the city of Albany, on the second Tuesday of May next, the recognitors above named, to make recognition of the Grand Assise aforesaid. But because it is thought proper by the said Court here before the aforesaid Judge thereof, to suspend the trial of this cause until the decision of the Supreme Court of the United States shall have been given upon the writ of error brought on behalf of the said Martha Bradstreet upon the judgment heretofore rendered in this Court in the cause of James Jackson, on the demise of Martha Bradstreet, against Henry Huntington; therefore it is considered that the said prayer of the said Martha Bradstreet for the award of the writ aforesaid be denied, and that in the mean time the trial of this cause be suspended, without prejudice either to the said Martha Bradstreet or to the said William F. Potter, until a decision shall have been given by the Supreme Court aforesaid upon the writ of error aforesaid.

And now at this day, to wit, the second Tuesday of May, in the year of our Lord one thousand eight hundred and thirty-one, before the said Judge of the District Court aforesaid, at the Capitol in the city of Albany aforesaid, come as well the said Martha Bradstreet in her proper person, as the said William F. Potter, by his attorney aforesaid; and the said Martha Bradstreet in her proper person, because the name of John L. Tillinghast, her former attorney, has been stricken from the rolls of the said District Court by order of the Judge thereof, now here, for that the Supreme Court of the United States have given their decision upon the writ of error above mentioned, prays the writ of the President of the United States of America to the Marshal of the said District, to be directed to cause to come before the Judge of the District Court aforesaid, at the Academy in the town of Utica aforesaid, the last Tuesday of August next, the recognitors above named, to make recognition of the Grand Assise aforesaid; and because the Supreme Court of the United States have given their decision upon the writ of error above mentioned, it is granted her, &c. Therefore the Marshal is commanded that he cause to come before the Judge of the District Court aforesaid, at the Academy in the town of Utica, on the last Tuesday of August next, the recognitors above named, to make recognition of the Grand Assise aforesaid; the same day is given as well to the said Martha Bradstreet as to the said William F. Potter, there, &c. At which day, before the Judge of the said District Court, at the Academy in the town of Utica aforesaid, come as well the said Martha Bradstreet in her proper person, as the said William F. Potter by his

attorney aforesaid, and the recognitors of the Grand Assise whereof mention is above made, being called come, and hereupon the said William F. Potter prays that the suit of the said Martha Bradstreet in this behalf, against him the said William F. Potter, may be dismissed for want of jurisdiction in the said District Court to entertain and try the same; for that there is no averment of the pecuniary value of the lands demanded by the said Demandant, Martha Bradstreet, in the said counts filed and exhibited by the said Demandant, Martha Bradstreet, against the said Tenant, William F. Potter. And upon this the matter aforesaid alledged by the said William F. Potter as aforesaid, in bar of the jurisdiction of the District Court aforesaid being seen, and by the said Judge here fully understood, it seems to the said Judge here, that the said District Court has not jurisdiction of the suit aforesaid, for that the said count contains no allegation of the value of the matter in dispute, and it does not therefore appear by the pleadings in this cause that the same is within the jurisdiction of this Court: therefore it is considered, ordered, and adjudged by the said District Court now here before the aforesaid judge thereof, that the said suit of the said Demandant, Martha Bradstreet, against the said Tenant, William F. Potter, be, and the same is hereby dismissed for want of jurisdiction, &c.

And now at this day, to wit, the second Tuesday of May, in the year of our Lord one thousand eight hundred and thirty-three, before the Judge of the District Court aforesaid, at the City Hall in the city of Albany aforesaid, come as well the said Martha Bradstreet in her proper person, as the said William F. Potter, by his attorney aforesaid; and the said Martha Bradstreet now brings here into the said District Court the certain peremptory Writ of the President of the United States of America, of Mandamus, issued out of the said Supreme Court of the United States of America, and under the seal thereof, directed to the Judge of the District Court aforesaid; and he is thereby commanded and enjoined amongst other things, that immediately upon the receipt of that Writ, and without delay, he re-instate and proceed to try and adjudge according to the law and right of the case, the said Writ of Right and the Mise therein joined, lately pending in this said Court, between the said Martha Bradstreet, Demandant, and the said William F. Potter, Tenant, therein above named, so that complaint be not again made to the said Supreme Court: Whereupon it is ordered by the said District Court before the aforesaid Judge thereof now here, that the said peremptory Writ of Mandamus be filed, and that the said Writ of Right and the Mise therein joined, lately pending in the said District Court between the said Martha Bradstreet, Demandant, and the said William F. Potter, Tenant, be, and the same is hereby re-instated. And as before, the Marshal is commanded that he cause to come before the Judge of the District Court aforesaid, at the Court room in the city of Utica, on the last Tuesday of August next, the recognitors above named, to make recognition of the Grand

Assise aforesaid; the same day is given as well to the said Martha Bradstreet as to the said William F. Potter, there, &c.

And hereupon the said William F. Potter puts in his place Joseph Kirkland his attorney, in the stead of Charles P. Kirkland, his former attorney, at the suit of the said Martha Bradstreet, in the plea aforesaid.

At which day, before the Judge of the District Court aforesaid, at the Court room in the city of Utica aforesaid, come as well the said Martha Bradstreet in her proper person, as the said William F. Potter, by his attorney aforesaid, and the Marshal has not sent his writ thereof; therefore as before, the Marshal is commanded that he cause to come before the said Judge of the District Court aforesaid, at the City Hall in the city of Albany, on the third Tuesday of January next, the recognitors above named, to make recognition of the Grand Assize aforesaid: the same day is given to the parties aforesaid, there, &c.

At which day, before the said Judge of the said District Court aforesaid, at the City Hall in the city of Albany aforesaid, come as well the said Martha Bradstreet in her proper person, as the said William F. Potter, by his attorney aforesaid, and the recognitors of the Grand Assize, whereof mention is above made, being called, certain eleven of them, to wit, John I. Wendell, John I. Boyd, Walter Clark, Robert Swain, Benjamin Knower, David Wood, Elisha W. Skinner, Jesse Buel, Sylvanus Penniman, David Burhans, and Jacob Ten Eyck, come; and because a sufficient number of the recognitors elected and chosen to make the recognition of the Grand Assize aforesaid, do not remain upon the panel aforesaid, the said Martha Bradstreet prays that an election may be made to supply the vacancies occasioned by the deaths, removals and excuses of any of the recognitors above elected as aforesaid; and it is granted to her, &c., and with the assent of the said William F. Potter; and the Marshal is commanded that by good summoners he summon the said John I. Wendell, John I. Boyd, Walter Clark, and Robert Swain, the electors above summoned as aforesaid, that they be here before the Judge of the District Court aforesaid, on the second Tuesday of May next, to make that election of the Grand Assize as last aforesaid; the same day is given to the parties aforesaid, there, &c.

At which day, before the Judge of the District Court aforesaid, come here at the City Hall in the city of Albany aforesaid, as well the said Martha Bradstreet in her proper person, as the said William F. Potter, by his attorney aforesaid; and the Marshal, to wit, John W. Livingston, Esq. now returns, that by good summoners, he had caused to be summoned the said John I. Wendell, John I. Boyd, Walter Clark, and Robert Swain, that they be here on the said second Tuesday of May, to do as the same Writ commands and requires; and that the said summoners are, and each of them is, mainprized by John Doe and Richard Roe: Whereupon the

said John I. Wendell, John I. Boyd, Walter Clark, and Robert Swain, four good and lawful men of the District aforesaid, being called, in their proper persons come, and in the presence of the parties lawfully and truly chuse, in addition to themselves and the said Bejamin Knower, David Wood, Elisha W. Skinner, Jesse Buel, Sylvanus Penniman, David Burhans, and Jacob Ten Eyck, thirteen other good and lawful men of the said District, to wit, Nicholas B. Doe, Jonathan H. Douglas, Joshua Mandeville, Nathan Bailey, James S. Van Schoonhoven, Thomas Boyd, Stephen Van Schaick, Chauncey Whitney, William H. De Witt, Robert Kearney, Chauncey Johnson, Julius R. Ames, and James Hodge, good and lawful men of the District aforesaid, who best know and will declare the truth between the parties, and who neither are of kin to the said Martha Bradstreet or to the said William F. Potter, to make recognition of the Grand Assize aforesaid: Therefore the Marshal is commanded that he cause the said John I. Wendell, John I. Boyd, Walter Clark, Robert Swain, Benjamin Knower, David Wood, Elisha W. Skinner, Jesse Buel, Sylvanus Penniman, David Burhans, Jacob Ten Eyck, Nicholas B. Doe, Jonathan H. Douglas, Joshua Mandeville, Nathan Bailey, James S. Van Schoonhoven, Thomas Boyd, Stephen Van Schaick, Chauncey Whitney, William H. De Witt, Robert Kearney, Chauncey Johnson, Julius R. Ames, and James Hodge, to come before the Judge of the District Court aforesaid, at the Court room in the city of Utica, on the last Tuesday of August next, the recognitors last above named, to make recognition of the Grand Assize aforesaid; the same day is given to the parties aforesaid, there, &c.

At which day, before the Judge of the District Court aforesaid, at the Court room in the city of Utica aforesaid, come as well the said Martha Bradstreet in her proper person, as the said William F. Potter, by his attorney aforesaid, and the Marshal has not sent the writ; therefore as before, the Marshal is commanded that he cause to come before the Judge of the District Court aforesaid, at the City Hall in the city of Albany, on the third Tuesday of January next, the recognitors last above named, to make recognition of the Grand Assise aforesaid; the same day is given to the parties aforesaid, there, &c.

At which day, before the Judge of the District Court aforesaid, at the City Hall in the city of Albany aforesaid, come as well the said Martha Bradstreet in her proper person, as the said William F. Potter by his attorney aforesaid, and the recognitors of the Grand Assise, whereof mention is above made, being called, also come, and certain sixteen of them, to wit, John I. Wendell, John I. Boyd, Walter Clark, Robert Swain, Benjamin Knower, David Wood, Elisha W. Skinner, Jesse Buel, Sylvanus Penniman, Jacob Ten Eyck, Jonathan H. Douglas, Nathan Bailey, Thomas Boyd, Chauncey Whitney, Chauncey Johnson, and Julius R. Ames, being elected, tried and sworn, upon their oath say, that the said

William F. Potter has a greater title to hold the messuages and tenements aforesaid, with the appurtenances, to him and his heirs as Tenants thereof, as he now holds the same, than the said Martha Bradstreet to hold the same, as the above demands the same:

Therefore it is considered, that the said Martha Bradstreet take nothing by her said Writ, but be in mercy for her false claim thereof; and that the said William F. Potter go thereof without day, &c.; and that the said William F. Potter, hold the tenements aforesaid, with the appurtenances, to him and his heirs, quit of the said Martha Bradstreet and her heirs, for ever.

Judgment signed this 22d day of December, in the year of our Lord one thousand eight hundred and forty.

ANSON LITTLE, *Clerk*.

(Endorsed.)

DISTRICT COURT U. S. N. D. N. Y.

WILLIAM F. POTTER, Tenant,
ads.
MARTHA BRADSTREET, Demandant. } Judgment Roll.

Filed Dec. 22d, 1840.

JOSEPH KIRKLAND,
Attorney for Tenant.

DISTRICT COURT OF THE UNITED STATES,
For the Northern District of New York.

MARTHA BRADSTREET, Demandant,
vs.
WILLIAM F. POTTER, Tenant. } Bill of Exceptions.

Which said Mise in form aforesaid, joined, between the said tenant and the said demandant, to wit, at the stated January session of the District Court of the United States of America for the Northern District of New York, held at the city of Albany, in and for the said Northern District of New York, on the ninth and tenth days of February, in the year of our Lord one thousand eight hundred and thirty-five, before Alfred Conkling, Esq. Judge of the said District Court, came on to be tried by the Grand Assise, for that purpose duly elected, at which day came there as well the said demandant in her proper person, as the said William F. Potter by his attorney aforesaid, and the recognitors aforesaid, chosen to make recognition of the Grand Assise between the said parties, being called, sixteen of them also came and were sworn to say the truth, whether the said William F. Potter hath more mere right to hold the tene-

said John I. Wendell, John I. Boyd, Walter Clark, and Robert Swain, four good and lawful men of the District aforesaid, being called, in their proper persons come, and in the presence of the parties lawfully and truly chuse, in addition to themselves and the said Bejamin Knower, David Wood, Elisha W. Skinner, Jesse Buel, Sylvanus Penniman, David Burhans, and Jacob Ten Eyck, thirteen other good and lawful men of the said District, to wit, Nicholas B. Doe, Jonathan H. Douglas, Joshua Mandeville, Nathan Bailey, James S. Van Schaick, Chauncey Whitney, William H. De Witt, Robert Kearney, Chauncey Johnson, Julius R. Ames, and James Hodge, good and lawful men of the District aforesaid, who best know and will declare the truth between the parties, and who neither are of kin to the said Martha Bradstreet or to the said William F. Potter, to make recognition of the Grand Assize aforesaid: Therefore the Marshal is commanded that he cause the said John I. Wendell, John I. Boyd, Walter Clark, Robert Swain, Benjamin Knower, David Wood, Elisha W. Skinner, Jesse Buel, Sylvanus Penniman, David Burhans, Jacob Ten Eyck, Nicholas B. Doe, Jonathan H. Douglas, Joshua Mandeville, Nathan Bailey, James S. Van Schoonhoven, Thomas Boyd, Stephen Van Schaick, Chauncey Whitney, William H. De Witt, Robert Kearney, Chauncey Johnson, Julius R. Ames, and James Hodge, to come before the Judge of the District Court aforesaid, at the Court room in the city of Utica, on the last Tuesday of August next, the recognitors last above named, to make recognition of the Grand Assize aforesaid; the same day is given to the parties aforesaid, there, &c.

At which day, before the Judge of the District Court aforesaid, at the Court room in the city of Utica aforesaid, come as well the said Martha Bradstreet in her proper person, as the said William F. Potter, by his attorney aforesaid, and the Marshal has not sent the writ; therefore as before, the Marshal is commanded that he cause to come before the Judge of the District Court aforesaid, at the City Hall in the city of Albany, on the third Tuesday of January next, the recognitors last above named, to make recognition of the Grand Assise aforesaid; the same day is given to the parties aforesaid, there, &c.

At which day, before the Judge of the District Court aforesaid, at the City Hall in the city of Albany aforesaid, come as well the said Martha Bradstreet in her proper person, as the said William F. Potter by his attorney aforesaid, and the recognitors of the Grand Assise, whereof mention is above made, being called, also come, and certain sixteen of them, to wit, John I. Wendell, John I. Boyd, Walter Clark, Robert Swain, Benjamin Knower, David Wood, Elisha W. Skinner, Jesse Buel, Sylvanus Penniman, Jacob Ten Eyck, Jonathan H. Douglas, Nathan Bailey, Thomas Boyd, Chauncey Whitney, Chauncey Johnson, and Julius R. Ames, being elected, tried and sworn, upon their oath say, that the said

William F. Potter has a greater title to hold the messuages and tenements aforesaid, with the appurtenances, to him and his heirs as Tenants thereof, as he now holds the same, than the said Martha Bradstreet to hold the same, as the above demands the same:

Therefore it is considered, that the said Martha Bradstreet take nothing by her said Writ, but be in mercy for her false claim thereof; and that the said William F. Potter go thereof without day, &c.; and that the said William F. Potter, hold the tenements aforesaid, with the appurtenances, to him and his heirs, quit of the said Martha Bradstreet and her heirs, for ever.

Judgment signed this 22d day of December, in the year of our Lord one thousand eight hundred and forty.

ANSON LITTLE, *Clerk*.

(Endorsed.)

DISTRICT COURT U. S. N. D. N. Y.

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ads.
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DISTRICT COURT OF THE UNITED STATES,
For the Northern District of New York.

MARTHA BRADSTREET, Demandant,
vs.
WILLIAM F. POTTER, Tenant. } Bill of Exceptions.

Which said Mise in form aforesaid, joined, between the said tenant and the said demandant, to wit, at the stated January session of the District Court of the United States of America for the Northern District of New York, held at the city of Albany, in and for the said Northern District of New York, on the ninth and tenth days of February, in the year of our Lord one thousand eight hundred and thirty-five, before Alfred Conkling, Esq. Judge of the said District Court, came on to be tried by the Grand Assise, for that purpose duly elected, at which day came there as well the said demandant in her proper person, as the said William F. Potter by his attorney aforesaid, and the recognitors aforesaid, chosen to make recognition of the Grand Assise between the said parties, being called, sixteen of them also came and were sworn to say the truth, whether the said William F. Potter hath more mere right to hold the tene-

ments which the said Martha Bradstreet demands against him by her Writ of Right, or the said Martha Bradstreet to have them as she demands the same.

And upon the trial of that Mise, the counsel for the tenant, to maintain and prove the said Mise on his part, called as a witness William Alverson, who being sworn on his *soir dire*, testified that he was the son-in-law of Stephen Potter, the father of the said tenant William F. Potter; that the witness had sold *a part* of lot No. 97 in Cosby's Manor, *with* warranty, which the wife of the witness had derived from her father the said Stephen Potter; that the premises in question in this suit are another part of the said lot No. 97 in Cosby's Manor, which the said tenant had also derived from his said father Stephen Potter; that he, the witness, knew that the claim of the demandant extended as well to that part of the said lot No. 97, in Cosby's Manor, which the witness had sold with warranty as aforesaid, as to the premises in question in this suit, and for the same proportion and under the same title.

The said demandant thereupon objected to the competency of the said William Alverson as a witness in this cause, on the ground that he had a direct interest to testify in behalf of the tenant, the party calling him as a witness, and the said demandant prayed the said Judge to reject and exclude the said William Alverson from testifying as a witness on the said trial of this said cause. But the said Judge overruled the said objection, and decided that the said William Alverson should be admitted to testify as a witness, to which said decision and opinion of the said Judge, the said demandant did then and there except.

And the said William Alverson being thereupon sworn in chief, testified that he was sixty-five years old; that he knew Stephen Potter in 1790; that Stephen Potter died in 1810; that he knows lot No. 97 in Cosby's Manor; that a part of the city of Utica is on part of that lot; there was a small improvement on it in 1789, made by Sylvanus Morey, a squatter. Potter went on to the lot in the spring of 1790, and in the December following claimed to have purchased four hundred acres, and to have a deed for lot No. 97; in 1790 Stephen Potter went on to the premises, and in 4 or 5 years cleared a part of it; William F. Potter sold a part of the lot; that he continued to clear and cultivate it to the time of his death; sold a burying ground from it; claimed to be owner of it and exercising the ordinary acts of ownership; that after his death, Wm. F. Potter succeeded him in the possession of the premises in question, and claimed to own and exercised acts of ownership, and continues to do so at this time, with the exception of such parts as he has since sold; witness's wife is sister to the tenant in this suit, and daughter to Stephen Potter, but witness never had any interest in the part of lot No. 97 in question, in this suit.

And the said witness on being cross-examined by the said Demandant, testified that the said Sylvanus Morey was in possession

of a small part of the lot, but had no title, and that the said Stephen Potter bought said Morey's possession—that he the witness built a house on a part of the premises in dispute in this suit, and did not leave it until after this suit was commenced. The interest of witness in said house was sold on an execution against him, and witness was in possession at the time of the sale, but that witness never had any title to the premises on which he built the house nor any contract therefor; Stephen Potter left four daughters and one son—and that the Bradstreet property contains only part of the city of Utica. And the said counsel for the said tenant, further to maintain and prove the said mise on his part, produced and read in evidence a paper writing, purporting to be a deed of bargain and sale, bearing date the 24th day of December, in the year of our Lord one thousand seven hundred and ninety, between Charles John Evans of Brooklyn, in the county of Kings, gentleman, and Agatha his wife, one of the daughters and devisees of John Bradstreet, Esq. deceased, and Sir Charles Gould, executor of the last will and testament of Martha Bradstreet, the other daughter and devisee of the said John Bradstreet, by Daniel Ludlow and Edward Gould, of the City of New York, merchants, of the one part, and Stephen Potter of Whitestown, Montgomery county, State of New York, of the other part, for said lot No. 97. A copy of which said paper writing is hereunto annexed marked No. 1. And the said counsel for the said tenant, further to maintain and prove the said mise on his part, called as a witness Archibald Campbell, who being sworn, testified that he is Deputy Secretary of State for the State of New York, and that he found in the said office of the Secretary of State, a certain paper writing purporting to be a deed of conveyance which he produced in court. But to the reading the same in evidence, the said demandant then and there objected on the ground that the certificate of proof did not state that the subscribing witness to the deed was personally known to the officer taking the proof of the same. But the said judge overruled the said objection, and decided also that the same might be read in evidence as an ancient deed without any proof of its execution, to which said decisions and opinion of the said judge, the said demandant did then and there except. And thereupon the said deed dated the 26th day of February 1796, from the said Edward Gould and Charles Wilkes and Richard Harison, executors of the last will and testament of Agatha Evans, deceased, of the first part; the said Edward Gould in his own right and as trustee for the sale of the premises therein aftermentioned, of the second part; James Symington and Frances his wife, of the third part; to the said Stephen Potter of the fourth part, for the said lot No. 97 in Cosbys' manor aforesaid, was read in evidence, a copy of which said deed is hereunto annexed, marked No. 2.

And the said counsel for the said tenant, further to maintain and prove the mise on his part, produced and offered in evidence a paper writing purporting to be the last will and testament of the said Stephen Potter, and bearing date the twentieth day of August,

in the year of our Lord one thousand eight hundred and eight; and called the said William Alverson to prove the death and hand-writing of all the subscribing witnesses to the said last will and testament—but the said Demandant objected to the competency of the said William Alverson to testify in support of the said last will and testament. And thereupon the said William Alverson was sworn on his *soir dire*, and testified that he married Matilda Ford, one of the devisees in the said last will and testament of the said Stephen Potter named—that his said wife took possession of the real estate therein devised to her, and which was parcel of the said lot No. 97 in Cosby's Manor aforesaid, but was no part of the premises in controversy in this suit. And that the witness and his said wife afterwards sold the same with warrantee—and the said Demandant thereupon insisted before the said judge that the said William Alverson was incompetent to testify as a witness in support of the said last will and testament, and prayed the said judge to reject and exclude the said William Alverson from testifying as a witness in support of the said last will and testament.

But the said judge overruled the said objection, and decided that the said William Alverson was a competent witness to testify in support of the said last will and testament, and directed him to be sworn in chief; to which said decision and opinion of the said judge the said Demandant did then and there except. And the said witness being sworn in chief, testified that he was acquainted with the three subscribing witnesses to the said last will and testament—that they were all dead, and that knew the names of the said witnesses subscribed to the said last will and testament to be the proper hand-writings of the said witnesses respectively; and that the name of the testator subscribed to the said last will and testament was in the proper hand-writing of the said Stephen Potter.

And the said witness, upon being cross-examined by the said Demandant, testified that he was sworn as a witness on a trial about a year previous, between the said demandant and Henry Huntington, tenant, in relation to another parcel of said lot No. 97 in Cosby's Manor; and upon being thereupon asked by the said demandant whether he did not on that occasion testify differently in relation to the death of one of the subscribing witnesses to the said last will and testament of the said Stephen Potter, from what he now testified, the said witness answered that he did not recollect precisely what he testified on the said trial against the said Henry Huntington, as a great number of questions were asked him on that trial. And on being re-examined by the counsel for the tenant, he testified that the land devised to his wife by the will of Stephen Potter, was worth about six hundred dollars; but that if Stephen Potter had died intestate, his wife would have been entitled to one fifth of his estate, now worth as he thinks seventy thousand dollars. And the said last will and testament being thereupon read in evidence, it thereby appeared that a part of the said lot No. 97 in Cosby's Ma-

nor aforesaid, which included the premises in controversy in this suit, were in and by the said last will and testament devised to the said tenant, William F. Potter. And the said counsel for the said tenant further to maintain and prove the said mise on his part, produced as a witness Benjamin F. Cooper, who being sworn, testified that he is in his thirty-fourth year; that he knew Stephen Potter since and from his earliest recollections; and that the said Stephen Potter was then in the occupation of that part of lot No. 97 in Cosby's Manor which is in controversy in this suit, but that he always understood the said Stephen Potter to claim to be the owner thereof.—Upon being cross-examined by the said demandant, the said witness testified that he did not recollect that he had ever heard the said Stephen Potter say he was the owner.

The said counsel for the said tenant having rested his case, the counsel for the said demandant opened the case on her behalf to the grand assise; and thereupon the said counsel for the said tenant enquired of the said demandant whether she intended to offer any new or different evidence in this cause from that heretofore offered by her on the trial of the case of Henry Huntington, at the suit of this demandant for another portion of this same lot No. 97 of Cosby's Manor. In reply to which enquiry of the tenant's counsel, the counsel for the said demandant admitted that she had no other or different evidence from that offered in the trial of the cause of said Huntington; whereupon the counsel for the said tenant objected to the evidence which he thus understood was intended to be offered on behalf of this demandant, alledging that it had been given in evidence in several former trials in the said court, and especially in a writ of right, recently tried in the said court between the said demandant and Henry Huntington for another portion of the same lot in Cosby's Manor, and had been solemnly considered by the said court on a motion for a new trial in said cause made by said Henry Huntington; and that it was then decided by this court that the evidence of the said demandant, when offered, (and now intended to be offered) in no wise tended to establish a legal title to any portion of said lot in the said demandant; and the evidence therefore intended to be offered by the said demandant was entirely immaterial and irrelevant, and requested the said judge to reject the same. But the said counsel for the said demandant contended that she had a right to produce to the grand assise sworn in this cause, the evidence to support her title to the premises claimed in *this* cause.—And the said counsel for the said demandant denied the power of the court to take the case from the grand assise, the mise having been joined and recognition prayed by the said tenant—but the said judge decided that in as much as the evidence to make out the asserted title of the demandant to this and other lots in Cosby's Manor had been so frequently examined by the said judge in other trials in behalf of the said demandant, whereby he had become fully cognizant of the same, and especially as he had recently solemnly con-

sidered the same on a motion for a new trial in the above mentioned cause of Henry Huntington at the suit of the said demandant, and had come to the conclusion that the said evidence tended in no wise to establish a legal title to any portion of the said lot No. 97 in the said demandant; he was therefore bound to overrule the same as insufficient in law, and therefore immaterial and irrelevant, the said judge rejected the same. To which said decision and opinion of the said judge, the said counsel for the said demandant did then and there on her behalf except.

And the said counsel for the said demandant then and there stated to the said judge, that he would offer each piece of the said testimony which he had intended to give separately and in succession, and would claim the right to give the same and every part thereof in evidence to the said grand assise chosen in this cause; and the said counsel thereupon offered to prove and give evidence as follows:

1. An Exemplification under the great seal of the State of New York, of Letters Patent from the then Government of the Province of New York, bearing date the 2nd day of January 1734, to Joseph Worrell and others for a certain Tract of Land therein particularly specified and described, but subject to the payment of quit-rents, and within which said tract, the said lot which was afterwards laid out as Lot No. 97, in "Cosby's Manor" is included, and which contains the premises in question in this suit. But the said Judge rejected the said testimony; to which said decision and opinion of the said Judge, the said Counsel for the said Demandant did then and there on her behalf except.

2. A Warrant under the hand and seal of Daniel Horsmanden, Esquire, Chief Justice of the Supreme Court of the then Province of New York, bearing date the 7th day of May 1772, directed to the Sheriff of the County of Albany, and commanding him to sell for arrears of quit-rents, the premises described in the said patent to Joseph Worrell and others; with the return made by the said Sheriff to the said warrant endorsed thereon, which said return is contained in the schedule hereunto annexed marked (B.) But the said Judge rejected the said testimony. To which said decision and opinion of the said judge, the said Counsel for the said Demandant did then and there on her behalf except.

3. An Exemplification under the great seal of the State of New York of a Deed of Indenture made the 20th day of July, 1772, between Henry Ten Eyck, junr. Esqr., Sheriff of the County of Albany, of the one part, and Philip Schuyler, of the County of Albany, Esqr. of the other part, a copy of which is hereto annexed, marked No. 4. But the said Judge rejected the said testimony; to which said last mentioned decision and opinion of the said Judge, the said Counsel for the said Demandant did then and there on her behalf except.

4. The last Will and Testament of General John Bradstreet, the due execution of which was admitted by the Counsel for the said

Tenant, and a copy whereof is contained in the schedule hereunto annexed marked (C.); but the said Judge rejected the said testimony; to which said last mentioned decision and opinion of the said Judge, the said Counsel for the said Demandant did then and there on her behalf except.

5. The last Will and Testament of Martha Bradstreet, one of the daughters and devisees of the said John Bradstreet; a copy whereof is contained in the schedule hereunto annexed marked (D); and the due execution and legal validity whereof was admitted by the said Counsel for the said Tenant. But the said Judge rejected the said testimony; to which said last mentioned decision and opinion of the said Judge, the said Counsel for the said Demandant did then and there on her behalf except.

6. A map of the Tract designated as "Cosby's Manor," which comprises the lands described in the said Patent to Joseph Worrell and others, and also the lands lying easterly thereof, and adjacent thereto, and which are comprised in a certain other patent granted by the then Government of the Province of New York, to John Lyne and others, and bearing date the 2nd day of January, 1734; the said map purported to have been made on the 31st day of August 1786, and in pursuance of a survey of the said lands, by John R. Bleecker, and the names of the proprietors, and other writing on the said map, were in the hand-writing of the said John R. Bleecker. The said "Cosby's Manor" was divided on the said map into one hundred and six lots; and the several lots respectively drawn on the partition of the said Manor, to the four proprietors, Philip Schuyler, John Bradstreet, Rutger Bleecker, and John Morin Scott, were marked on the said map with their respective names. And the said lot No. 97 was amongst other lots which fell to the share of the estate of the said John Bradstreet, and marked with the name of the said John Bradstreet. But the said Judge rejected the said testimony; to which said last mentioned decision and opinion of the said Judge, the said Counsel for the said Demandant did then and there on her behalf except.

7. A Deed of Partition indented, made the 19th day of December, 1786, between the said Philip Schuyler, of the one part, and the said Rutger Bleecker, of the other part, wherein and whereby the said Rutger Bleecker released to the said Philip Schuyler several lots of land, in Cosby's Manor, and amongst them the said Lot No. 97: but the said Judge rejected the said testimony; to which said last mentioned decision and opinion of the said Judge, the said Counsel for the said Demandant did then and there on her behalf except. A Copy of which said deed is hereto annexed, marked Schedule (No. 5.)

8. An Exemplification under the seal of the Court of Chancery of the State of New York, of the Bill of Complaint of the said Charles John Evans and Agatha his wife, against the said Philip Schuyler; the answer of the said Philip Schuyler thereto; copies

of which said Bill of Complaint, and of the said answer thereto, or of so much thereof as relates to the said lands in "Cosby's Manor," are contained in the schedules hereto annexed marked (E & F.) But the said Judge rejected the said testimony; to which said last mentioned decision and opinion of the said Judge, the said Counsel for the said Demandant did then and there on her behalf except.

9. An Exemplification under the seal of the said Court of Chancery, of the testimony of the said William Smith taken in the said suit in Chancery between the said Charles John Evans and Agatha his wife, Complainants, and the said Philip Schuyler, Defendant, a copy whereof, or of so much thereof as relates to the said lands in "Cosby's Manor," is contained in the schedule hereunto annexed marked (G.): But the said Judge rejected the said testimony; to which said last mentioned decision and opinion of the said Judge, the said Counsel for the said Demandant did then and there on her behalf except.

10. A Certificate of the Assistant Register of the said Court of Chancery, under the seal of the said Court, dated 15th September 1827, certifying that he had carefully examined the records and Titles in his office, and did not find any decretal order in the said cause in the said Court of Chancery between the said Charles John Evans and Agatha his wife, Complainants, and the said Philip Schuyler, Defendant. But the said Judge rejected the said testimony; to which said last mentioned decision and opinion of the said Judge, the said Counsel for the said Demandant did then and there on her behalf except.

11. An Exemplification of the record under the seal of the County of Herkimer, of an Indenture made the 16th Day of May, 1794, between the said Philip Schuyler,as Executor of the last Will and Testament of the said John Bradstreet, deceased, of the one part, and the said Agatha Evans of the other part, a copy whereof is contained in the schedule hereunto annexed marked (H.): But the said Judge rejected the said testimony; to which said last mentioned decision and opinion of the said Judge, the said Counsel for the said Demandant did then and there on her behalf except.

12. The Will of Elizabeth Livius, a copy whereof is contained in the schedule hereunto annexed marked (I.): But the said Judge rejected the said testimony; to which said last mentioned decision and opinion of the said Judge, the said Counsel for the said Demandant did then and there on her behalf except.

13. The last Will and Testament of the said Agatha Evans, ca opy whereof is hereunto annexed marked (J.): But the said Judge rejected the said testimony: to which said last mentioned decision and opinion of the said Judge, the said Counsel for the said Demandant did then and there on her behalf except.

14. Two Deeds of Release from the said Samuel Bradstreet to

the said Demandant, copies whereof are contained in the schedules hereunto annexed marked respectively (K.) and (L.): But the said Judge rejected the said testimony; to which said last mentioned decision and opinion of the said Judge, the said Counsel for the said Demandant did then and there on her behalf except.

15. The consent of Sir Charles Morgan to the marriage of the Demandant with the said Matthew Codd; a copy whereof is contained in the schedule hereunto annexed marked (M.): But the said Judge rejected the said testimony; to which said last mentioned decision and opinion of the said Judge, the said Counsel for the said Demandant did then and there on her behalf except.

16. An Exemplification of a decretal order of the said Court of Chancery, under the seal thereof, requiring the said Edward Goold to convey to the said Demandant the real estate therein mentioned: a copy of which said decretal order, together with copies of the pleadings in the cause wherein the said decretal order was made, are contained in the schedules hereunto annexed marked respectively, (N.) (O.) (P.) (Q.) (R.): But the said Judge rejected the said testimony; to which said decision and opinion of the said Judge, the said Counsel for the said Demandant did then and there on her behalf except.

17. The Deed of the said Edward Goold to the said Demandant, in pursuance of the said decretal order; a copy of which Deed is contained in the Schedule hereunto, annexed marked (S.): But the said Judge rejected the said testimony; to which said last mentioned decision and opinion of the said Judge, the said Counsel for the said Demandant did then and there on her behalf except.

18. An Exemplification, under the seal of the District Court of the United States for the Southern District of New York, of the proceedings filed in that said Court on the Commission of bankruptcy issued against the said Edward Goold and Charles D. Goold, of the City of New York, merchants; containing amongst other things the report made the 6th day of December 1802, by John Broome, Jonathan Pierson, and James Fairlie, the Commissioners appointed in and by the said Commission of bankruptcy, by which it was found that the said Edward Goold became a bankrupt since the first day of June 1800; and containing also the confirmation of the said report of the said Commissioners by John Sloss Hobart, Esquire, Judge of the District Court of the United States, for the District of New York, on the 28th of December 1802: But the said Judge rejected the said testimony; to which said decision and opinion of the said Judge, the said Counsel for the said Demandant did then and there on her behalf except.

19. An Exemplification under the seal of the Supreme Court of Judicature of the people of the State of New York, of the record

of a certain Judgment in Partition in the same Court signed, filed and docketed the 11th day of October 1806, in which the said Matthew Codd and Martha his wife, (the Demandant in this suit) were petitioners, and Richard Harison, Edward Goold and Charles Wilkes, of the City of New York, holding in trust for the representatives of Frances Bainbridge, deceased, Benjamin Walker, Nathan Williams and Jonas Platt, of the county of Oneida, Executors of the last Will and Testament of the said Frances Bainbridge, deceased, and the said Edward Goold as Trustee for the said Samuel Bradstreet, were Defendants; by which said Judgment three equal, undivided twelfth parts of Lots Nos. 47, 57, 58, 59, 60, 61, 79; of the Northerly half of Lot No. 2; and of the whole of Lot No. 43 (excepting only one hundred acres thereof) in the said Tract called "Cosby's Manor," appeared to belong to the said Demandant in this suit; eight equal, undivided twelfth parts thereof to the said Richard Harison, Edward Goold and Charles Wilkes, and the said Benjamin Walker, Nathan Williams and Jonas Platt, as Trustees and as Executors aforesaid; and one equal, undivided twelfth part thereof to the said Edward Goold as Trustee for the said Samuel Bradstreet; and Partition of the said premises was thereupon ordered to be made between the said parties according to their respective rights; and Partition having accordingly been made by Abraham M. Walton, Alexander Coventry and Charles C. Brodhead, Commissioners duly appointed by the said Supreme Court of Judicature, for that purpose, between the said parties respectively in the proportions aforesaid; it was considered and adjudged by the said Supreme Court of Judicature, that the said Partition be confirmed, and that the same be firm and effectual forever between all the Parties thereto: But the said Judge rejected the said testimony; to which said last mentioned decision and opinion of the said Judge, the said Counsel for the said Demandant did then and there on her behalf except.

20. An exemplification under the seal of the said Supreme Court of Judicature of the report of the said commissioners in the said partition suit, with the map made by them thereto attached: But the said Judge rejected the said testimony; to which said last mentioned decision and opinion of the said Judge, the said counsel for the said demandant did then and there on her behalf except.

21. An exemplification under the seal of the said Court of Chancery of the State of New York, of the decree of divorce pronounced in the said Court, in the suit brought therein by the said demandant against the said Matthew Codd; a copy whereof is contained in the schedule hereunto annexed, marked (T.): But the said Judge rejected the said testimony; to which said last mentioned decision and opinion of the said Judge, the said counsel for the said demandant did then and there on her behalf except.

And the said counsel for the said demandant then and there offered to produce testimony to prove the following facts:

That the demandant is the same person named Martha Bradstreet, a devisee in the respective wills of Martha Bradstreet, deceased, and of Elizabeth Livius, deceased, and in the said deed from the said Philip Schuyler to the said Agatha Evans and Edward Goold, and the same person named Martha Codd in the said decretal orders of the said Court of Chancery, and in the said deed of the said Edward Goold to Martha Codd.

That she was born the 10th day of August, 1780; that she was born in the Island of Antigua in the West Indies, and was married to Matthew Codd in Ireland, on the 16th of April, in the year 1799; and that she is an alien and a subject of the King of the United Kingdom of Great Britain and Ireland.

That she arrived in the State of New York, with her said husband, in the autumn of the said year 1799, and that she has ever since resided in the State of New York.

That she is the daughter of Major Samuel Bradstreet, the son of Mrs. Mary Bradstreet, by her *first* husband, *Colonel* John Bradstreet; that Mrs. Elizabeth Livius was the daughter of the said Mary Bradstreet by her said *first* husband; that the said Elizabeth Livius never had issue; and that the said demandant and her said brother Samuel Bradstreet were the nearest of kin to, and heirs at law of the said Elizabeth Livius.

That the said General John Bradstreet died on the 26th day of September, 1774, in the city of New York; that his said daughter Martha Bradstreet died the 22nd day of March, 1782, in England, without issue and unmarried; that his widow, Mary Bradstreet, died the 31st day of March, 1782, in England; that the said Charles John Evans died the 9th day of August, 1793; that the said William Smith died in the latter part of the year 1793; that the said Agatha Evans, one of the two daughters of the said General John Bradstreet, and the widow of the said Charles John Evans, died the 9th day of February, 1795; that the said Elizabeth Livius died in England, the 4th day of May, 1795; that the said Philip Schuyler died the 18th day of November, 1804; that the Mr. Charles Gould mentioned in the will of the said General John Bradstreet, the Sir Charles Gould mentioned in the will of the said Martha Bradstreet, and the Sir Charles Morgan mentioned in the will of the said Elizabeth Livius, were one and the same person, and that he died in England about 20 or 30 years ago; and that the value of the premises in controversy was more than $2,000. All of which said facts were admitted by the said counsel for the said tenant. But the said Judge rejected the said testimony, to which said decision and opinion of the said Judge the said counsel for the said demandant did then and there on her behalf except.

And the said Judge did then and there deliver his opinion to the grand assise, and did charge them in substance and to the following effect: that the evidence given on the part of the tenant being sufficient at least to require of the demandant proof of a legal title

and seisin in herself, in order to enable her to recover, and no evidence whatever having been given on her part; the evidence offered by her having been overruled, as in the opinion of the court insufficient in law to warrant a verdict in her favor; it was therefore the duty of the grand assise to render their verdict in favor of the tenant. To all which said opinion and charge of the said Judge the said counsel for the said demandant did then and there on her behalf except.

And inasmuch as the said several matters so given in evidence on the part of the said tenant, and the objections made thereto on the part of the said demandant, and the said several matters so offered in evidence on the part of the said demandant and rejected by the said Judge, do not appear by the record of the verdict aforesaid, the said counsel for the said demandant did then and there propose his aforesaid exceptions to the decisions and opinions of the said Judge, and requested him to put his seal to this bill of exceptions, containing as well the said several matters so given in evidence on the part of the said tenant, and the objections so made thereto on the part of the said demandant, as the said several matters so offered in evidence on the part of the said demandant, and so rejected by the said Judge as aforesaid, according to the form of the statute in such case made and provided; and thereupon the said Judge, at the request of the said counsel for the said demandant, did put his seal to this bill of exceptions on the tenth day of February, in the year of our Lord one thousand eight hundred and thirty-five.

ALFRED CONKLING, [L. S.]

No. 1.

This indenture, made the twenty-fourth day of December, in the year of our Lord one thousand seven hundred and ninety, between Charles John Evans, now of Brooklyn, in the County of Kings, gentleman, and Agatha his wife, one of the daughters and devisees of John Bradstreet, Esquire, deceased, and Sir Charles Gould, executor of the last will and testament of Martha Bradstreet, the other daughter and devisee of the said John Bradstreet, by Daniel Ludlow and Edward Goold, of the City of New York, merchants, his attornies, of the one part, and Stephen Potter of Whitestown, Montgomery County, State of New York, of the other part: witnesseth that the said Charles John Evans and Agatha his wife, and Sir Charles Gould, for and in consideration of the sum of four hundred pounds, lawful money of the State of New York, to them in hand paid by the said Stephen Potter, at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, have granted, bargained, sold, aliened, released and confirmed, and by these presents, do clearly and absolutely grant, bargain, sell, alien, release and confirm unto the said Stephen Pot-

ter, and his heirs and assigns for ever, all that certain lot, piece or parcel of land, situate, lying and being in the County of Montgomery and State of New York; part of a larger tract granted to Joseph Warrell and others, by patent dated the second day of January, in the year of our Lord one thousand seven hundred and thirty-four, which lot, upon a late division of the said tract, was distinguished by number ninety-seven, and contains four hundred acres of land, with the rights, members and appurtenances thereof; and all easements, advantages, and hereditaments whatsoever, to the same belonging, or in any wise appertaining; and the reversion and reversions, remainder and remainders, rents and services of the same, and all the estate, right, title, interest, property, claim and demand whatsoever, either at law or in equity, of them the said Charles John Evans, and Agatha his wife, and Sir Charles Gould, and every of them, of, in and to the same, and of, in and to every part and parcel thereof, with the appurtenances. To have and to hold the same lot of land, hereditaments and premises unto the said Stephen Potter, his heirs and assigns, to the only proper use and behoof of the said Stephen Potter, his heirs and assigns, for ever; and the said Charles John Evans, for himself, his heirs, executors and administrators, doth hereby covenant and agree, to and with the said Stephen Potter, his heirs and assigns, that he the said Stephen Potter, and his heirs and assigns for ever, shall and may peaceably and quietly have, hold and enjoy the said lot of land, hereditaments and premises, free and clear of all encumbrances, titles and charges made by the said John Bradstreet, or any person or persons claiming or to claim by, from or under him, and that the said Charles John Evans, and his heirs, the said lot of land, hereditaments and premises, with the appurtenances, to the said Stephen Potter, his heirs and assigns, against all and every person or persons whomsoever, shall and will warrant, and for ever defend by these presents.

In witness whereof, the parties to these presents have hereunto interchangeably set their hands and seals the day and year first above written.

CHARLES JOHN EVANS, [L. S.]
AGATHA EVANS. [L. S.]

CHARLES GOULD,
Executor of the last will and testament of Martha Bradstreet, by
DANIEL LUDLOW and
EDWARD GOOLD, [L. S.]
his Attornies.

Sealed and delivered in the presence of—(by Charles John Evans and Agatha Evans, Christopher Aldridge, James M. Hughes.)

Witnesses present at the execution hereof, by Charles Gould, executor of Martha Bradstreet, by Daniel Ludlow and Edward Goold, his attornies:

JAMES M. HUGHES,
ROBERT CROMMELIN, JR.

Received on the day of the date of the within indenture of the within Stephen Potter, the sum of four hundred pounds, being the full consideration money within mentioned.

Witness: JAMES M. HUGHES.

CHARLES JOHN EVANS,
LUDLOW and GOOLD.

Recorded 7th July, 1791.

No. 2.

This Indenture, made the twenty-sixth day of February, in the year of our Lord one thousand seven hundred and ninety-six, between Edward Goold, Charles Wilkes, and Richard Harison, all of the city of New York, in the State of New York, executors of the last will and testament of Agatha Evans, formerly of the same place, widow, deceased, of the first part, and the said Edward Goold, in his own right and as trustee for the sale of the premises hereinafter mentioned, among other things, of the second part, James Symington, of the city and State aforesaid, gentleman, and Frances, his wife, of the third part, and Stephen Potter, of the county of Herkimer, in the aforesaid State, yeoman, of the fourth part.

Whereas, the said Agatha Evans, in her life time, was seised in fee of two undivided third parts of the premises hereinafter granted; and the said Edward Goold is seised upon certain trusts of the other undivided third part thereof. And whereas the said premises have been heretofore conveyed by the said Agatha and others to the said party of the fourth part, and it is judged necessary that the said parties of the first and second part should confirm his title thereto—

Now, therefore, this indenture witnesseth, that the said parties of the first and second part, with the approbation of the said parties of the third part, signified by their executing these presents, and by virtue of the power contained in the will of the said Agatha Evans, as well as in consideration of the sum of two hundred dollars of lawful money of the State of New York, to them in hand well and truly paid by the said Stephen Potter, at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged—and thereof and therefrom, and from every part and parcel thereof, do acquit, release, exonerate, and forever discharge the said Stephen Potter, his heirs, executors, administrators, and every of them—by these presents have granted, bar-

gained, sold, aliened, released, conveyed, and confirmed, and by these presents do grant, bargain, sell, alien, release, convey, and confirm unto the said Stephen Potter, and to his heirs and assigns, for ever, all that certain lot, piece, or parcel of land, in the county of Herkimer, and State of New York; part of a larger tract commonly known by the name of Cosby Manor; the said lot lying on the south side of the Mohawk river, and commonly distinguished as lot number ninety-seven of the said manor, containing four hundred acres, be the same more or less.

Together with all and singular the rights, members, and appurtenances thereof, and all profits, privileges, hereditaments, and advantages to the same, or any part or parcel thereof, belonging or in any wise appertaining; and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and of every part and parcel thereof, with the appurtenances. And also all the estate, right, title, interest, property, claim, and demand whatsoever in law and equity of them, the said parties of the first and second part, of, in and to the same, and of, in and to every part and parcel thereof, with the appurtenances. To have and to hold all and singular, the said lot, piece or parcel of land, hereditaments and premises, above, in and by these presents released and confirmed, and every part and parcel thereof, with the appurtenances, unto the said Stephen Potter, his heirs and assigns, to the only proper use and behoof of the said Stephen Potter, his heirs and assigns, for ever. And the said parties of the first and second part, for themselves severally and respectively, and not the one for the other, and for their several and respective heirs, executors, and administrators, and for their several and respective acts and deeds, do severally and respectively covenant and agree to and with the said Stephen Potter, his heirs and assigns, by these presents, that they, the said parties of the first and second parts, have not, nor hath either of them done, committed, or suffered any act, matter, or thing whatever, whereby the above granted and released premises, or any part thereof, are, may, or can be released, forfeited, burdened, charged, or incumbered in title, charged estate, or otherwise howsoever. And lastly, that they, the said parties of the first and second parts, all and singular the said hereby granted and released premises, and every part and parcel thereof, with the appurtenances, unto the said Stephen Potter, and to his heirs and assigns, against them, the said parties of the first and second parts respectively, and against their several and respective heirs, and against all persons claiming under them, shall and will warrant, and by these presents forever defend.

In witness whereof, the parties to these presents have hereunto set their hands and seals the day and year first above written.

J. SYMINGTON, [L. S.] FRANCES SYMINGTON, [L. S.]
EDWARD GOOLD, [L. S.] RICHARD HARISON, [L. S.]
CHARLES WILKES, [L. S.] EDWARD GOOLD, Ex., [L. S.]

Sealed and delivered in presence of us—
ALEX. KIRKPATRICK,
PIERRE E. FLEMMING.

Received, on the day and year within written, of the within named Stephen Potter, the sum of two hundred dollars, [$200.]
EDWARD GOOLD.

Be it remembered, that on the *sixth* day of February, in the year of our Lord one thousand seven hundred and ninety-six, before me, Jedediah Sanger, one of the Judges of Common Pleas in the county of Herkimer, personally came Pierre E. Flemming, one of the subscribing witnesses, who, being sworn, did depose, that he saw Charles Wilkes, Edward Goold, Richard Harrison, James Symington, and Frances Symington, wife of said James Symington, who severally acknowledged that they severally signed, sealed and delivered the within written indenture, as their voluntary act and deed, for the uses and purposes therein mentioned; and I having examined the said Frances Symington privately, separate, and apart from her husband, who did declare that she voluntarily and of her own accord did execute the same without any fear threat or compulsion from her said husband—and I having examined the same, and finding no material erasure or interlineations therein, do allow the same to be recorded.
JEDEDIAH SANGER.

Schedule (B.)

By virtue of the within Process to me directed, and in consequence of an advertisement by me made, pursuant to the Act of the Lieutenant Governor, the Council and the General Assembly within mentioned, I have on this fourth day of July, in the year of our Lord one thousand seven hundred and seventy-two, between the hours of nine and twelve of the same day, at the Court House or City Hall, in the city of Albany, in the county of Albany, sold, disposed of and struck off at public vendue or outcry, to Philip Schuyler, Esq., the highest and best bidder, twenty-one thousand nine hundred acres of the within mentioned tract of land, to be located in the manner as by the said Act is directed, for the within mentioned sum of twelve hundred and forty-three pounds ten shillings and seven pence, being the arrears of quit rent and charges within mentioned, and for the further sum of one hundred and forty-three pounds fourteen shillings, and for the charges of advertisement, sale, survey and conveyance and other incidental charges, as within and by the said Act I am commanded and authorized.
HENRY TEN EYCK, JUNR. *Sheriff*.

Schedule (No. 4.)

This Indenture, made this twentieth day of July, in the year of our Lord one thousand seven hundred and seventy-two, between Henry Ten Eyck, Jun'r, Esq'r, Sheriff of the County of Albany, of the one part, and Philip Schuyler, of the county of Albany, Esquire, of the other part: Whereas Daniel Horsmanden, Esq'r, Chief Justice of the Supreme Court of Judicature for the province of New did issue a certain process under his hand and seal, dated the seventh day of May, in the year of our Lord one thousand seven hundred and seventy-two, to the Sheriff of the county of Albany directed, and which to the said Sheriff was in due form of law delivered, to be by him executed; reciting that whereas Andrew Elliott, Esq'r, his Majesty's Receiver General of this colony of New-York, on the 25th day of November, then last past, represented to him, the said Chief Justice, that on the first day of June, in the year of our Lord one thousand seven hundred and sixty-seven, there were three and more years' quit rent due and in arrear to his Majesty for a certain grant and patent, bearing date the second day of January, in the year of our Lord one thousand seven hundred and thirty-four, unto Joseph Warrell, William Cosby, Sheriff of Amboy, John Lyne, Thomas Freeman, Paul Richards, John Felton, Charles Williams, Richard Shuckburg, Timothy Bagley, James Lyne, and Frederick Morris, for all that certain tract or parcel of land, situate, lying, and being in the county of Albany, on both sides of the Mohawks river, beginning at a certain place on the south side of the said Mohawks river, and the west side of a brook, called Sedaghqueda, where the said brook falls into the said river, and runs thence south thirty-eight degrees west two hundred and thirty eight chains; then south fifty-two degrees east four hundred and eighty-three chains; then north thirty-eight degrees east four hundred and eighty chains; then north fifty-two degrees west four hundred and eighty-three chains; and then south thirty-eight degrees west two hundred and forty-two chains, to the place where the same tract began; containing twenty-two thousand acres of land, and the usual allowance for highways: and further reciting that the said Andrew Elliot had made due proof unto him, the said Chief Justice, that in pursuance of an act of the Lieutenant Governor, the Council, and the General Assembly of this colony of New-York, entitled an act for the more effectual collecting of his Majesty's quit-rents in the colony of New-York, and for partition of lands in order thereto, he, the said Receiver General, therefore had, in due form of law, given notice in two of the public newspapers printed and published in the city of New York, (and that the same public notice had been so continued weekly for three months successively, from the said first day of June,) that if the owners or proprietors of the said lands did not within twelve months after the date of such public notice,

pay the arrears of quit-rent due to his Majesty for the said lands, with the charge of such notice or notices being given, to the said Receiver General, that so much of the said lands would be sold at public vendue or outcry, as would pay the same, with the charges of the said notices and sale; and that in the said notice so given in the said public newspapers as aforesaid, it was expressed to whom the said grant or patent was originally made, the date of the said grant, and the sum due thereby to the last day of payment preceding such notice, so far as the same did appear from the accounts of his Majesty's quit-rents, in the custody of the said Receiver General: and further reciting that whereas also, that whereas the said Receiver General, on the said twenty-fifth day of November, had further represented to him, the said Chief Justice, that more than twelve months had elapsed since the publication of the said notice as aforesaid, and that nevertheless the said quit-rents for the grant and patent aforesaid had not been discharged, but that failure had been made of the payment of the said quit-rent and charges of such notice as aforesaid, and had thereupon applied to him, the said Chief Justice, for relief in the premises; and that thereupon he, the said Chief Justice, had, by virtue of the power and authority to him given by the said act of the Lieutenant Governor, the Council and the General Assembly of this colony, as one of his Majesty's Justices of his Majesty's Court of Exchequer for this colony, on the said twenty-fifth day of November, in pursuance of the directions of the same act, caused an advertisement to be published in one of the public newspapers printed in the city of New-York, notifying the several owners and proprietors of the said lands granted in the said grant or patent, to be and appear before him, at his chambers in Smith street, in the city of New-York, on the thirtieth day of December then next, to shew cause, if any he, she, or they had, why so much of the said lands in the said grant or patent contained, should not be sold, as should be sufficient to satisfy the sum due to his Majesty for arrearages of quit-rent for the said grant and patent, with the charges. And further reciting, that whereas the owners or proprietors of the said lands, or any or either of them, had not appeared before him, the said Chief Justice, on the day so appointed as aforesaid, for that purpose, according to the form and effect of the said notice, and that due proof having been made to him, the said Chief Justice, by the said Receiver General, of the amount of the quit-rent due and in arrear to his Majesty for the said grant or patent; he, the said Chief Justice, in further pursuance of the said act of the Lieutenant Governor, the Council and the General Assembly, had, on the said day of the test of the said process, certified that there was due to his Majesty for quit-rent for the said grant or patent for the lands aforesaid, to the twenty-fifth day of March then last past, being the last day of payment thereof, preceding the date of the said certificate, the sum of twelve hundred and twenty six-pounds ten shillings and

ten pence, current money of the province of New York, and that the further sum of sixteen pounds nineteen shillings and nine pence, current money aforesaid, was due to his said Majesty, as well for the charges then already accrued in and by the proceedings aforesaid, as for the charges of the said process; and whereas he, the said Chief Justice, did therefore, in and by the said process, and in further pursuance of the said act of the Lieutenant Governor, the Council, and the General Assembly, in his Majesty's name, command him, the said Sheriff, within sixty days after the test of the said process, to sell and dispose of at public vendue or outcry, to the highest or best bidder, so much of the lands contained with the grant and letters patent aforesaid, as would pay the said sum of twelve hundred and twenty-six pounds ten shillings and ten pence, so certified to be due to his Majesty for quit-rents as aforesaid, and the said further sum of sixteen pounds nineteen shillings and nine pence, so certified to be due as aforesaid, for the charges as aforesaid, amounting in the whole to twelve hundred and forty-three pounds ten shillings and seven pence, and the further incidental charges thereon; and that he, the said Sheriff, should pay the said moneys into the hands of the said Receiver General within twenty days after such sale, conforming in all things touching the same to the directions in and by the said act of the Lieutenant Governor, the Council and the General Assembly in that behalf given and prescribed, and that thereof he should fail not, as by the said process, reference being thereunto had, may appear.

And whereas the said Sheriff being thereto empowered and required by the said act, did, within six days after the receipt of the said process, cause advertisements to be fixed on the Court House of the city of Albany, in the county of Albany, and also at the church door of the township of Kinderhook, as also at the door of the church at Katskill, and also at the door of the house of John Boon, tavern keeper, situate near the Mohawk river, three of the most public places in the said county of Albany, (as the same did extend and was bounded at and for some time after the above recited proceedings were begun,) and within which the above said lands did then lie; that on the fourth day of this instant month of July, a day not exceeding fifty nor less than forty days after the date of such advertisement, (the same being dated the twenty-second day of May last,) so much of the said lands would be sold at public vendue or outcry, to the best bidder, as would pay the sum mentioned in the said process, and the charges of advertisement, sale, survey, and conveyance, and other incidental charges.

And whereas also, the said sheriff before he made the sale as as aforesaid directed and hereinafter mentioned, did, on the third day of this instant July, take an oath administered to him by David Edgar, Esq'r, one of his Majesty's Justices of the Peace, for the said county of Albany, of the tenor in and by the said act directed,

and did obtain and file a certificate thereof, as in and by the said act is directed, and on the said fourth day of this instant month of July, he, the said sheriff, pursuant to the directions of the said act & process, & in consequence of his said advertisement, did, between the hours of nine and twelve of the forenoon of the same day, at the Court House of the city of Albany aforesaid, expose to sale at public vendue or outcry, so much of the said lands, to be struck off to the best bidder, as would pay the sum mentioned in the said process, and the charges of advertisement, sale, survey, and conveyance, and other incidental charges; at which public vendue or outcry the said sum and the said charges were publicly mentioned and declared, and the sale aforesaid was then and there continued & kept open during all the time between the said hours of nine & twelve, and of all the lands granted & contained in & by the said letters patent or grant, were then & there struck off to the said Philip Schuyler as the best bidder, twenty-one thousand nine hundred acres.

And whereas, since the making of the said sale, the said Sheriff hath caused the said lands so sold, to be surveyed and laid out in one entire piece, beginning at and including one end or side of the said whole tract of land, and extending forward, and also across the same, so as to include all the uncultivated lands or unimproved lands in the said tract, that can be included in one entire piece, and so also as to include the said quantity of twenty-one thousand nine hundred acres; which said lands so sold, struck off, and surveyed as aforesaid, are butted and bounded as are hereinafter described and mentioned to be hereby granted and released.

Now, therefore, this Indenture witnesseth, that he, the said Sheriff, in execution of the said act and process, and for and in consideration of the said moneys mentioned in the said process, and also for and in consideration of the further sum of one hundred and forty-three pounds fourteen shillings, the aforesaid charges of advertisement, sale, survey, and conveyance, and other incidental charges, amounting together to the sum of thirteen hundred and eighty-seven pounds four shillings and seven pence, current money of New-York, to him, the said Sheriff, in hand well and truly paid by the said Philip Schuyler, at or before the sealing and delivery of these presents, the receipt whereof the said Sheriff doth hereby confess and acknowledge, and thereof and therefrom, and of and from every part and parcel thereof, doth hereby release, exonerate, acquit, and forever discharge the said Philip Schuyler, his heirs, executors, administrators, and assigns, he, the said Sheriff, hath granted, bargained, sold, aliened, released, conveyed, assured, and confirmed; and by these presents doth fully, freely, and absolutely grant, bargain, sell, alien, release, convey, assure, and confirm unto the said Philip Schuyler, (in his actual possession now being by virtue of a bargain and sale to him thereof made by the said Sheriff for one whole year, by Indenture, bearing date the day

uext but one before the day of the date of these presents, and by force of the statute for transferring of uses into possession,) and to his heirs and assigns, all that certain piece, parcel, or tract of land surveyed and laid out in one entire piece as aforesaid, and parcel of the lands mentioned and granted in and by the said grant & patent, and butted and bounded as follows: that is to say, beginning at a certain place on the south side of the Mohawks river, and the west side of a brook called Sedaghqueda, where the said brook falls into the said river, and runs thence south thirty-eight degrees, west two hundred and eleven chains and forty-one links; then south fifty-two degrees east four hundred and eighty-three chains; thence north thirty-eight degrees east four hundred and fifty-three chains and forty-one links; thence north fifty-two degrees west four hundred and eighty-three chains; thence south thirty-eight degrees west two hundred and forty-two chains, to the place of beginning, containing as aforesaid: Together with all and singular the houses, messuages, buildings, barns, stables, mills, orchards, gardens, fences, out-houses, waters, water-courses, rivers, rivulets, runs and streams of water, ponds, pools, lakes, woods, meadows, swamps, hedges, ditches, underwoods, trees, ways, paths, and all and *and* singular other the hereditaments and appurtenances thereunto belonging, or in any wise appertaining; and the reversion and reversions, remainder and remainders, rents, issues, & profits thereof, & of every part and parcel thereof, with the rights, members, and appurtenances, and also all the estate, right, title, & interest of any and every person and persons whomsoever, claiming or deriving title to the said hereby granted and released premises, or any part or parcel thereof, with the appurtenances, by, from, or under the said letters patent, whether at law or in equity. To have and to hold all and singular the said tract, piece, or parcel of land, and all and singular other the tenements, hereditaments, and premises, and every part and parcel thereof, with the appurtenances hereby granted, conveyed, and released or herein meant, mentioned, or intended to be hereby granted, conveyed, and released unto the said Philip Schuyler, his heirs and assigns, to the sole and only proper use, benefit, and behoof of the said Philip Schuyler, his heirs and assigns, forever; as fully, wholly, and amply, to all intents, constructions, and purposes whatsoever, as he, the said Sheriff, is by the said act and process authorized, enabled, and required to grant, convey, and release the same to the best bidder, and to no other use, intent, or purpose whatsoever.

In witness whereof, the parties to these presents have hereunto interchangeably set their hands and seals, the day and year first above written.

HENRY TEN EYCK, Jun'r,
Sheriff, [L. S.]

Sealed & delivered in the presence of

[the words (him) and (his) in the twenty-fifth line, and the words (twenty-one thousand)i n the fiftieth line, being first written on razures; and a razure made in the fifty-second line, between the word (include) and the word (the) and the said word (the) & the next word (said,) also wrote on a razure; and the word (of) in the first skin, and the words (but one) in the second skin, interlined, all before sealing & delivery; also the word (east) in the second skin, first interlined,]

ROB'T YATES,
PETER W. YATES.

Received on the day of the date of the within mentioned, from the within named Philip Schuyler, Esq'r, the sum of thirteen hundred and eighty-seven pounds four shillings and seven pence, in full for the consideration money within specified.

Be it remembered, that on the second day of November, in the year of our Lord one thousand seven hundred & ninety-three, personally appeared before me, Jeremiah Lansingh, one of the Masters in Chancery for the State of New York, Peter W. Yates, who, being duly sworn, made oath that he saw Henry Ten Eyck, while the said Henry Ten Eyck was Sheriff of the county of Albany, execute the within written Indenture as his voluntary act & deed, & that he, the said Peter W. Yates, together with Robert Yates, subscribed their names as witnesses to the execution thereof; & having examined the said Indenture, & finding no material razures, interlineations, or obliterations, therein, except those noted, I allow the same to be recorded.

JER'H LANSINGH.

Clerk's Office of the County of Herkimer, ss:

Recorded the within written Indenture in Liber B. of Deeds, pages 277, &c., the 23rd Jan'y, 1795.

RD. LEAVENWORTH, *D. Clerk.*

STATE OF NEW YORK, *Secretary's Office.*

Recorded in Lib. M. R. R., page 211, &c., the 15th day of July, 1812, at noon.

ARCHD. CAMPBELL,
Dep. Secretary.

Schedule (C.)

"This is the last will and testament of John Bradstreet, Major General in his Majesty's army, as follows: I revoke all former wills and testaments. I appoint Col. Philip Schuyler to take all my books

and papers, and to settle and transmit my publick accounts to Charles Gould, Esq'r. of London, and I discharge the said Col. Schuyler from all demands and debts except one thousand pounds currency, which shall be paid to Elizabeth Bradstreet, daughter to my wife. I devise the farm which I have a lease of in fee, and which is now possessed by Tony Cliff, to John Bradstreet Schuyler, son of the said Col. Schuyler, and to his heirs and assigns forever; together with my arms, books, and apparel. I give all my carriages, horses and tackle, to Mrs. Schuyler, wife of the said Col. Philip Schuyler; the money due to me from Parson Johnson, of Corry's Bush, by bond, I give to his daughter, Margaret Schuyler. All the rest of my estate, real and personal, I devise and bequeath to my two daughters, equally to be divided between them, as tenants in common, in fee. But I charge the same with the payment of one hundred pounds sterling pr. annum to their mother during her life. Nothwithstanding the former devise for the benefit of my wife and daughters, I empower my executors to do all acts and execute all instruments which they may conceive to be requisite to the partition of my landed estate, and I devise the same to them as joint-tenants, to be by them sold at such time and in such manner as they shall think most for the interest of my daughters, to whom the nett produce shall be paid in equal shares, the sum of one hundred pounds sterling per annum being first deducted, or a capital to secure the same set apart for an annuity to my wife, as aforesaid. I order that Doctor Bruce have one hundred pounds for his trouble, and for his kindness to me; my watch I give to Mr. Gould as a mark of my friendship. I leave funeral expenses to the discretion of my executors, and I appoint for the execution of this my will the said Colo. Philip Schuyler, and William Smith, Esq., New York, who penned this will according to my dictate, while much indisposed, but in the enjoyment of my usual share of understanding.

In testimony whereof, I have hereunto set my hand and seal, this twenty-third day of September, 1774.

JOHN BRADSTREET, [L. S.]

Signed *signed*, sealed and published by General Bradstreet, the testator, as his last will and testament, and by us subscribed, as witnesses thereto, in his presence, and at his request, the words (in fee,) and the words (for his) first interlined, and the legacy of fifty changed to one hundred before attesting.

ADAM GILCHRIST,
WILL'M I. ALLMON,
FRANCIS GRANT."

Schedule (D.)

"In the name of God, amen. I, Martha Bradstreet, formerly of the town of Boston, in North America, and now residing in the parish

of Marybone, Westminster, spinster, being in my usual state of health, and of sound mind and memory, do make this my last will, as follows: I give and devise to my dear mother Mrs. Mary Bradstreet, the produce and interest of my estate, real and personal, during her life, and the sum of one thousand pounds principal, and my apparel, household furniture, and any cash I may have by me at my decease, to dispose of as she may think proper; subject however to the payment of my debts, funeral charges, and the sum of one hundred pounds which I bequeath to my aunt, Mrs. Martha Aldridge, widow, to be paid in one month after my decease. And as to my said real estate and the residue of my personal estate, and the rent, issues, interest and profits of both, after my dear mother's death, I give, devise and bequeath the same, and whatsoever I may in anywise be entitled unto, as follows: one equal third part thereof to my sister Elizabeth Livius, her heirs and assigns forever, to be at her own disposal, and independent of her husband, by will or otherwise. One other equal third part, to Samuel Bradstreet and Martha Bradstreet, children of my late brother Samuel Bradstreet, deceased, and to their heirs and assigns forever, equally to be divided between them, and with benefit of survivorship, in case of the death of either of them, before the age of twenty-one years; but in case of the death of both in their minority, the said one-third to be equally divided between my sisters, Agatha Du Bellamy and Elizabeth Livius, and to vest in them respectively in like manner as the one third part devised to each of them. But it is my will, that the produce of the said one third part of my estate, and if necessary, part of the principal, shall be applied to the maintenance and education of the said Samuel and Martha, during their infancy. And as to the remaining one-third part of my estate, I give and devise the produce, income and profits of the same, to my said sister Agatha, wife of Charles Du Bellamy, for and during her life, and at her own disposal, and altogether independent of the control of her said husband, and in case she shall survive him, then I give and devise the said one third part to my said sister, and to her heirs and assigns forever. But, if my said sister should die before her said husband, leaving at the time of her death any child, or children then living, I do in that case give and devise the aforesaid one-third part to such child, or children, from and immediately after my said sister's decease, to the only proper use and behoof of such child or children, and to his, her, and their heirs and assigns forever, equally to be divided between them, as tenants in common. And if it should so happen, that my said sister Agatha should, by surviving her said husband, become seised of the fee simple, and absolute property of her share, and yet should die without making any disposition thereof, or in case her issue should become so vested, and should die under age, or without disposing thereof, or if my said sister should die in her husband's lifetime, leaving no child or children; in either of these events, I give and devise the said share

to my sister Elizabeth Livius, and to her heirs and assigns. And in like manner, if my said sister Elizabeth should die without disposing of her share, and leaving no issue at the time of her decease, I give and devise her share to my sister Agatha, and her heirs and assigns forever. Lastly, I constitute and appoint Sir Charles Gould, Knight, sole executor of this my last will, and I request that he will take this trouble upon himself, and accept of one hundred pounds, (to be paid out of my personal estate,) as an acknowledgment of his friendship, and attention to me upon many occasions. And I do authorise my said executor, to sell and dispose of such real estate, as I may be entitled to in North America, or elsewhere, and to execute conveyances for the same, and also to place out my monies upon such securities as he shall deem proper, and in such manner and form, as to the shares devised to my said sister Agatha, and to my nephew and niece, Samuel and Martha, respectively, as shall be conformable to the provisions I have above made, with respect to each of the said shares.

In witness whereof, I have to this my last will and testament set my hand and seal, this fifteenth day of May, in the year of our Lord one thousand seven hundred and eighty-one.

MARTHA BRADSTREET, [L. S.]

Signed, sealed, published and declared by the said testatrix, as and for her last will and testament, in our presence, who have subscribed our names as witnesses thereto, in the presence of the said testatrix and of each other. The words '*the produce, income and profits of*,' and following the word *devise*, in the last line but one of the first page, being first interlined. As also the words '*or if my said sister should die in her husband's lifetime, leaving no child or children*,' after the word 'thereof' in the thirteenth line of the second page, as also the word May instead of April, in the last line of the last page.

SAMBROOK RUSSELL,
ABEL WILLARD,
RICHM. WEBB.

26th March, 1782, Sir Charles Gould, Knight, the sole executor named in the above will, was duly sworn before me.

WILL. MACHAM, *Surrogate*.

Messrs. STEVENS & DODWELL.

Testatrix was formerly of Boston in North America, but late of the parish of St. Mary le Bone, in the county of Middlesex, and died this month.

Proved at London, the 30th day of March, 1782, before the worshipful William Macham, Doctor of Laws and Surrogate, by the oath of Sir Charles Gould, Knight, the sole exor., to whom adm'on was granted, having been first sworn duly to adm'r.

Schedule (No. 5.)

This Indenture, made the nineteenth day of December, in the year of our Lord one thousand seven hundred and eighty-six, between Philip Schuyler, of the City of Albany and County of Albany, Esquire, of the one part, and Rutger Bleecker, of city aforesaid, Esquire, of the other part:—Whereas, the said Philip Schuyler is seised in his demesne as of fee, of and in three undivided fourth parts of all that parcel of a certain tract of land formerly situated in the county of Albany, but now in the county of Montgomery, on both sides of the Mohawk river, granted by letters patent under the great seal of the late colony of New-York, bearing date the second day of January, in the year of our Lord one thousand seven hundred and thirty-four, to Joseph Warrel and others; which parcel of land aforesaid is comprehended in the following boundaries, to wit:—Beginning at a certain place on the south side of the Mohawk river, and the west side of a brook called Sedaghqueda, where the said brook falls into the said river, and runs thence south thirty-eight degrees west, two hundred and eleven chains and forty-one links; then south fifty-two degrees east, four hundred and eighty-three chains; thence north thirty-eight degrees east, four hundred and fifty-three chains and forty-one links; thence north fifty-two degrees west, four hundred and eighty-three chains; thence south thirty-eight degrees west, two hundred and forty-two chains, to the place of beginning; containing twenty-one thousand nine hundred acres: And whereas, the said Rutger Bleecker is seised in his demesne as of fee, of and in one undivided fourth part of the said parcel of land above mentioned and described: And whereas the parties to these presents are inclined to make a division of the said parcel of land, to enable them to hold their several shares in severalty; and for facilitating the said partition and division, and to enable them to make the same with greater equality, the said parcel of land hath been laid into lots, which are respectively butted, bounded, and contain as follows:—Lot number one begins in the middle of the Mohawk river, at the mouth of the Sedaghqueda creek, and runs thence north thirty-eight degrees east, two hundred and forty-two chains; thence south fifty-two degrees east, sixteen chains and nine links; thence south thirty-eight degrees west, to the middle of the Mohawk river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number two begins at the southwest corner of lot number one, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, sixteen chains and nine links; thence south thirty-eight degrees west, to the middle of the stream of *of* the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number three begins at the southwest corner of lot

number two, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, sixteen chains and thirty-nine links; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land.—Lot number four begins at the southwest corner of lot number three, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, seventeen chains and one link; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number five begins at the southwest corner of lot number four, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, seventeen chains and twenty links; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number six begins at the southwest corner of lot number five, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, thirteen chains and thirty links; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number seven begins at the southwest corner of lot number six, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, thirteen chains and forty-five links; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land.—Lot number eight begins at the southwest corner of lot number seven, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, fourteen chains and twenty-links; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number nine begins at the southwest corner of lot number eight, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, fifteen chains; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the said river, to the place of beginning; containing four hundred acres of land. Lot number ten begins at the southwest corner of lot number nine, and runs thence north thirty-eight degrees east, to the north-

eastermost bounds of the said patent; thence south fifty-two degrees east, sixteen chains and twenty links; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number eleven begins at the southwest corner of lot number ten, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, seventeen chains and twenty links; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number twelve begins at the southwest corner of lot number eleven, and runs thence north thirty-eight degrees east, to the northeastermost boundaries of the said patent; thence south fifty-two degrees east, seventeen chains and seventy-seven links; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number thirteen begins at the southwest corner of lot number twelve, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, seventeen chains; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number fourteen begins at the southwest corner of lot number thirteen, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, sixteen chains and ten links; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number fifteen begins at the southwest corner of lot number fourteen, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, sixteen chains and thirty links; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land.—Lot number sixteen begins at the southwest corner of lot number fifteen, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, sixteen chains and ten links; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream *to* the said river, to the place of beginning; containing four hundred acres of land. Lot number seventeen begins at the southwest corner of lot number sixteen, and runs thence north thirty eight degrees east, to the northeaster-

most bounds of the said patent; thence south fifty-two degrees east, fifteen chains and twenty links; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number eighteen begins at the southwest corner of lot number seventeen, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, sixteen chains and twenty links; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number nineteen begins at the southwest corner of lot number eighteen, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, sixteen chains and eighty-seven links; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number twenty begins at the southwest corner of lot number nineteen, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, eighteen chains and fifty links; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number twenty-one begins at the southwest corner of lot number twenty, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, twenty chains and forty-five links; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number twenty-two begins at the southwest corner of lot number twenty-one, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, twenty-one chains; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number twenty-three begins at the southwest corner of lot number twenty-two, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, seventeen chains; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number twenty-four begins at the southwest corner of lot number twenty-three, and runs thence north thirty-eight de-

grees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, eighteen chains and thirty-three links; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number twenty-five begins at the southwest corner of lot number twenty-four, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, eighteen chains and thirty-three links; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number twenty-six begins at the southwest corner of lot number twenty-five, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, nineteen chains and eighty links; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number twenty-seven begins at the southwest corner of lot number twenty-six, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, nineteen chains and ninety-five links; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number twenty-eight begins at the southwest corner of lot number twenty-seven, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, twenty chains and forty-six links; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lots number one hundred and four, one hundred and five, and one hundred and six, begin in the middle of the stream of the said Mohawk's river, in the northwestern boundary line of the said tract granted by the letters patent aforesaid, and run thence south thirty-eight degrees west, two hundred and eleven chains and forty-one links; thence south fifty-two degrees east, fifty-one chains and seventy-nine links; thence north thirty-eight degrees east, to the middle of the Mohawk river; and thence up the middle of the stream of the said river, to the place of beginning; containing one thousand two hundred acres of land. Lots number one hundred and one, one hundred and two, and one hundred and three, begin at the southeast corner of lots number one hundred and four, one hundred and five, and one hundred and six aforesaid, and run thence south thirty-eight degrees west, to the southwest corner of the said last mentioned lots; thence south fifty-two degrees east, fifty-six

chains and fifty-one links; thence north thirty-eight degrees east, to the middle of the stream of the said river; and then up the middle of the stream of the said river, to the place of beginning; containing one thousand two hundred acres of land. Lots number ninety-eight, ninety-nine, and one hundred, begin at the southeast corner of lots number one hundred and one, one hundred and two, and one hundred and three aforesaid, and run thence south thirty-eight degrees west, to the southwest corner of the said last mentioned lots; thence south fifty-two degrees east, fifty-three chains and twenty-two links; thence north thirty-eight degrees east, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing one thousand two hundred acres of land. Lots number *ninety-five, ninety-six and ninety-seven*, begin at the southeast corner of lots number ninety-eight, ninety-nine, and one hundred aforesaid, and run thence south thirty-eight degrees west, to the southwest corner of the said last mentioned lots; thence south fifty-two degrees east, forty-eight chains and seventy-seven links; thence north thirty-eight degrees east, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing one thousand two hundred acres of land. Lots number ninety-two, ninety-three, and ninety-four, begin at the northeast corner of lots number ninety-five, ninety-six, and ninety-seven aforesaid; and run thence south thirty-eight degrees west, to the southwest corner of the said last mentioned lots; thence south fifty-two degrees east, forty-nine chains and sixty-eight links; thence north thirty-eight degrees east, to the middle of the stream of the said river; and thence up the stream of the said river, to the place of beginning; containing one thousand two hundred acres of land. Lots number *eighty-nine, ninety, and ninety-one*, begin at the southeast corner of lots number ninety-two, ninety-three, and ninety-four aforesaid, and run thence south thirty-eight degrees west, to the southwest corner of the said last mentioned lots; thence south fifty-two degrees east, forty-eight chains and six links; thence north thirty-eight degrees east, to the middle of the stream of the said river; and thence up the stream of the said river, to the place of beginning; containing one thousand two hundred acres of land. Lots number eighty-six, eighty-seven, and eighty-eight, begin at the southeast corner of lots number eighty-nine, ninety, and ninty-one aforesaid, and run thence south thirty-eight degrees west, to the southwest corner of the said last mentioned lots; thence south fifty-two degrees east, forty-one chains and twenty-three links; thence north thirty-eight degrees east, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing one thousand two hundred acres of land. Lots number eighty-three, eighty-four, and eighty-five, begin at the southeast corner of lots number eighty-six, eighty-seven, and

eighty-eight aforesaid, and run thence south thirty-eight degrees west, to the southwest corner of the said last mentioned lots; thence south fifty-two degrees east, forty-seven chains and eleven links; thence north thirty-eight degrees east, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing one thousand two hundred acres of land. Lots number eighty, eighty-one, and eighty-two, begin at the southeast corner of lots number eighty-three, eighty-four, and eighty-five aforesaid, and run thence south thirty-eight degrees west, to the southwest corner of the said last mentioned lots; thence south fifty-two degrees east, forty-three chains and ninety-four links; thence north thirty-eight degrees east, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing one thousand two hundred acres of land. Lots number seventy-eight and seventy-nine begin at the southeast corner of lots number eighty, eighty-one, and eighty-two aforesaid, and run thence south thirty-eight degrees west, to the southwest corner of the said last mentioned lots; thence south fifty-two degrees east, twenty-eight chains and nine links; thence north thirty-eight degrees east, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing one thousand two hundred acres of land: All which courses are to be run as the magnetic needle pointed in the year of our Lord one thousand seven hundred and sixty-two. And whereas the said Philip Schuyler did grant and convey the undivided half of lots number three, number four, number eleven, number twelve, number nineteen, number twenty, number twenty-seven, and number twenty-eight, to the devisees of Peter Remsen, deceased:—

And whereas the parties aforesaid, after the division aforesaid was made, ballotted for the said lots, and upon such balloting, the lots number five, fourteen, sixteen, twenty-four, twenty-six, eighty-six, eighty-seven, eighty-eight, ninety-eight, ninety-nine and one hundred; likewise number two, six, ten, eighteen, twenty-one, sevty-eight, seventy-nine, eighty-nine, *ninety*, ninety-one, *ninety-five*, ninety-six, ninety-seven, seven, thirteen, seventeen, twenty-three, twenty-five, eighty-three, eighty-four, eighty-five, one hundred and one, one hundred and two, one hundred and three, and the undivided half of number three, eleven, nineteen and twenty-seven, and the north half of number one, were drawn to, and as and for the share and proportion of the said Philip Schuyler; and the lots number eight, nine, fifteen, twenty-two, eighty, eighty-one, eighty-two, ninety-two, ninety-three, ninety-four, one hundred and four, one hundred and five, one hundred and six, and the undivided half of number four, twelve, twenty and twenty-eight, and the south half of number one, were drawn to, and as and for the share and portion of the said Rutger Bleecker. Now, therefore, this indenture witness-

eth, that to the end and intent that a full, perfect and absolute partition and division of the said lands so remaining undivided may be made, the said Rutger Bleecker, doth give, grant, assign release and confirm unto the said Philip Schuyler, all the said lots or parcels of lots above mentioned, drawn as aforesaid, as and for the share and portion of the said Philip Schuyler, of and in the said tract of land; and all the estate, right, title and interest of the said Rutger Bleecker, in or to the same, or which he ought to have of, in or to any part or parcel thereof. To have and to hold the said lots or parcels of lots last mentioned, unto the said Philip Schuyler, his heirs and assigns, to the only use and behoof of the said Philip Schuyler, his heirs and assigns forever. And the said Philip Schuyler doth give, grant, assign, release and confirm, unto the said Rutger Bleecker, all the said lots or parcels of lots above mentioned, drawn as aforesaid, as and for the share and portion of the said Rutger Bleecker, of and in the said tract of land; and all the estate, right, title and interest, of the said Philip Schuyler in or to the same, or which he ought to have of, in or to any part or parcel thereof. To have and to hold the said lots or parcels of lots last mentioned, unto the said Rutger Bleecker, his heirs and assigns, to the only use and behoof of the said Rutger Bleecker, his heirs and assigns forever. And the said Philip Schuyler and Rutger Bleecker, for themselves, their heirs, executors and administrators, do respectively covenant, promise, grant and agree, to and with each other, that they or either of them have not done, committed or suffered any act, matter or thing, to alter, change, charge or defeat any of the lands hereby divided, or the estate by them to be held in the same, by virtue of these presents.

In witness whereof, the parties to these presents have hereunto interchangeably set their hands and seals, tne day and year first above written.

RUTGER BLEECKER, [L. S.]
PH. SCHUYLER, [L. S.]

Sealed and delivered,

[The word *lot* on the 9th line, *thirty* on the 13, *stream of the* on the 34th, written on razures. The words *and thence down the middle of the stream of the said river*, between the 13 and 14 lines, interlined; the word *aforesaid* on the 23d line of the 2d page, obliterated; the words *and thence* on the 6 line, *and that to the end and intent that* on the 45, written on razures before execution.]

In the presence of us,
VOLCKERT P. DOUW,
STEPHEN VAN RENSSELAER.

Be it remembered, that on the first day of November, in the year of our Lord one thousand seven hundred and ninety-three, person-

ally appeared before me, Jeremiah Lansingh, one of the masters in chancery for the State of New York, Stephen Van Rensselaer, who being duly sworn made oath, that he saw the within named Philip Schuyler & Rutger Bleecker execute the within written indenture respectively, as their respective act and deed, for the uses therein mentioned; and that he the said Stephen Van Rensselaer and Volckert P. Douw subscribed their names as witnesses to the execution thereof; and having examined the same, and finding no material razures, interlineations or obliterations therein, (except those noted,) I allow the same to be recorded.

JER'H. LANSINGH.

CLERK'S OFFICE OF THE COUNTY OF HERKIMER, *ss.*

Recorded the within indenture in liber B, of deeds, pages 237 &c., the 28th Jan'y, 1795.

WM. LEAVENWORTH,
D. Clerk.

STATE OF NEW YORK,
Secretary's Office.

Recorded in book of deeds M. R. R., page 78, &c., the 24th day of November, 1810, at 4 o'clock, P. M.

BEN. FORD, *Dep. Sec'ry.*

Schedule (E.)

"The people of the State of New York, by the grace of God [L. S.] free and independent; to all to whom these presents shall come greeting:

Know ye, that we having inspected the files of our Court of Chancery, of our said State, do find a certain bill there remaining, which is in the words and figures following, to wit:

In Chancery.

To the Honorable Robert R. Livingston, Esquire, Chancellor of the State of New York:

Humbly complaining, shews unto your honor, your orator and oratrix, Charles John Evans, of the City and State of New York, gentleman, and Agatha his wife, that John Bradstreet, Esquire, deceased, Major General in the army of his Britanic Majesty, the father of your oratrix, the said Agatha Evans, formerly resided for many years in the late province but now State of New York, in the character of Deputy Quarter Master-General to the forces of the said King in America, and during that time lived upon terms of the

greatest friendship and intimacy with Philip Schuyler, of the City and County or Albany, in the then province but now State of New York, Esquire, by means whereof the said Philip Schuyler became entrusted with the affairs of the said John Bradstreet, who reposed the highest confidence in him, and relied entirely upon his prudence and justice."—"And your orator and oratrix do further shew unto your honor, that the said John Bradstreet being in affluent circumstances, whilst he so resided as aforesaid, in the then Province of New York, not only lent large sums of money to the said Philip Schuyler, but made use of him as his agent and trustee, to place sundry other sums of money to a very large amount at interest in his own name, or the name or names of some other person or persons, but for the benefit of the said John Bradstreet, and to purchase sundry lands and tenements situate in different parts of the said Province, in the name of him the said Philip Schuyler, or in the name or names of some other person or persons, but in trust for the said John Bradstreet and his heirs and assigns forever."

"And that very large sums of money belonging to the said John Bradstreet, were at different times deposited by the said John Bradstreet with him, the said Philip Schuyler, as a trustee, to be employed in the several ways before mentioned, or in some other manner, for the benefit of the said John Bradstreet. And your orator and oratrix do further shew unto your honor, that the said John Bradstreet being possessed of a very considerable personal estate, and having a large, real and personal estate so held in trust for him as aforesaid, did on the twenty-fourth day of September, one thousand seven hundred and seventy-four, make and publish his last will and testament in writing, in the words and figures following, to wit: This is the last will and testament of Jno. Bradstreet, Major General in his Majesty's army, as follows: I revoke all former wills and testaments. I appoint Colo. Philip Schuyler to take all my books and papers, and to settle and transmit my public accts. to Charles Gould, Esqr. of London, and I discharge the said Colo. Schuyler from all demands and debts, except one thousand pounds currency, which shall be paid to Elizabeth Bradstreet, daughter to my wife. I devise the farm which I have a lease of in fee, and which is now possessed by Tonycliff, to Jno. Bradstreet Schuyler, son to the said Colo. Schuyler, and to his heirs and assigns forever, together with my arms, books and apparel. I give all my carriages, horses and tackle to Mrs. Schuyler, wife to the said Colo. Schuyler. The money due to me from Parson Johnson, of Corry's Bush, by bond, I give to his daughter, Margaret Schuyler. All the rest of my estate, real and personal, I devise and bequeath to my two daughters, equally to be divided between them as tenants in common in fee, but I charge the same with the payment of one hundred pounds sterling per annum to their mother during life; notwithstanding the former devise for the benefit of my wife and daughters, I empower my executors to do all acts, and execute all

instruments which they perceive to be requisite, to the partition of my landed estate, and I devise the same to them as joint tenants, to be by them sold at such time and in such manner as they shall think most for the interest of my daughters, to whom the nett produce shall be paid in equal shares, the sum of one hundred pounds sterling, pr. annum being first deducted, or a capital to secure the same set apart for an annuity to my wife as aforesaid. I order that Doctor Bruce have one hundred pounds for his trouble and his kindness to me. My watch I give to Mr. Gould, as a mark of my friendship. I leave funeral expenses to the discretion of my executors, and I appoint for the execution of this my will, the said Colo. Philip Schuyler & William Smith, Esqr., New York, who penned this will according to my dictate, while much indisposed, but in the enjoyment of my usual share of understanding." "And your orator and oratrix do further shew unto your honor, that soon after making and publishing the said last will and testament, the said John Bradstreet died, and that thereupon the said Philip Schuyler proved the said will, took upon himself the burthen of executing the same, and possessed himself of the said testator's money and other personal estates, and of all his books, accounts and papers whatsoever, and that the said William Smith refused to take upon himself the burthen of executing the said will, and did not intermeddle with the said estate in any manner whatsoever." "And your orator and oratrix being, by virtue of the will aforesaid, entitled to the one moiety of the residue of the real and personal estate of the said John Bradstreet, which in and by his last will and testament was devised and given to his wife and daughters, have frequently applied by themselves or their agents, in the most friendly manner, to the said Philip Schuyler, and requested him to give full and perfect accounts of the real and personal estate of the said John Bradstreet, and to pay and deliver to your orator, the said Charles John Evans, that proportion of the personal estate of the said John Bradstreet, to which he was entitled in right of your oratrix, the said Agatha, and to convey the one equal moiety of the real estate, which he, the said Philip Schuyler, was seised of or entitled to, in trust for the said John Bradstreet in his life time, to the said Agatha Evans in fee simple, or such part of the said lands as the said Agatha was by law entitled to; and your orator and oratrix well hoped that the said Philip Schuyler would long before this time have complied with such their reasonable application."

"In tender consideration whereof, and forasmuch as your orator and oratrix are remediless in the premises, by the strict rules of the common law, and can only be relieved by the aid of this honorable court, where matters of trust and confidence are properly cognizable, and for as much also as the matters herein before set forth, rest in a great measure in the secret knowledge of the said Philip Schuyler, and your orator and oratrix can only discover the same by having recourse to himself and his confederates when discov-

ered. To the end therefore, that the said Philip Schuyler and his confederates, when discovered, may, upon their several and respective corporeal oaths, true, full and perfect answer make to all and singular the premises, as particularly as if the same were here again repeated, and they thereunto interrogated; and more especially that they may set forth and discover whether the said John Bradstreet in his lifetime did not intrust the said Philip Schuyler with sundry or any, and what sums or sum of money, to be placed out at interest or employed in the purchase of land, or in any other and what manner, for the benefit of the said John Bradstreet." "And what purchase or purchases of lands, tenements or real estate have been made by the said Philip Schuyler, as a trustee for the said John Bradstreet, or with the money of the said John Bradstreet, and at what time or times."—"And that he may also, by decree of this court, be directed to convey the one moiety of the said real estate to your oratrix, the said Agatha Evans, in fee simple, or that such other conveyances and disposition of the said real estate may be made as your honor under all the circumstances of the case shall think proper. And that your orator and oratrix may have such further or other relief in the premises, as their case may require, and shall be agreeable to equity and good conscience. May it please your honor, to grant unto your orator and oratrix the most gracious writ of subpœna of the people of the State of New York, to be directed to the said Philip Schuyler, thereby commanding him at a certain day, and under a certain pain therein to be inserted personally, to be, and appear before your honor in this honorable court, then and there to answer the premises, and to stand to and abide such order and decree therein, as to your honor shall seem agreeable to equity and good conscience. And your orator shall ever pray.

HARRISON,
Solicitor and of Counsel for the Complainants.

Filed, 3d May, 1788. LEWIS.

All which we have caused by these presents to be exemplified, and the seal of our said Court of Chancery to be hereunto affixed.

Witness, Samuel Jones, Chancellor of our said State at the City of New York, this twenty-first day of November, in the year our Lord one thousand eight hundred and twenty-seven, and of the Independence of the United States of America the fifty-second.

JOHN L. LAWRENCE,
Assistant Register.

I, Samuel Jones, Chancellor of the State of New York, do hereby certify, that the seal affixed to the preceding exemplification is a true impression of the seal of the Court of Chancery of said

State; that John L. Lawrence, whose name is subscribed to the attestation of the said exemplification is the assistant register of said Court; and, that the said attestation is in due form.

S. JONES.

Dated, Albany, 14th January, 1828.

Schedule (F.)

"The people of the State of New York, by the Grace of God, free and independent, to all to whom the presents shall come greeting:

Know ye, that we having inspected the records of our [L. S.] Court of Chancery of said State, do find a certain answer therein remaining which is in the words and figures following, to wit:

STATE OF NEW YORK,
In Chancery.

The answer of Philip Schuyler of the city of Albany, in the county of Albany, defendant to the Bill of complaint of Charles John Evans, of the city and State of New York, gentleman, and Agatha his wife.

This defendant now & at all times hereafter, saving & reserving to himself all & all manner of benefit & advantage of exception that may be had or taken to the many errors, uncertainties & manifest insufficiencies in the complainants' said bill of complaint contained, for an answer thereto, or unto so much thereof as this defendant is advised is material, or necessary for him to make answer unto, he answereth & saith, that true it is, that the said John Bradstreet in the said bill of complaint named, formerly resided, or was employed for a number of years in the then province, now the State of New York, in the office or capacity of Deputy Quarter Master General to the forces of his Britanic Majesty in America, during the whole or the greatest part of which time, until the death of the said John, this defendant lived upon terms of the greatest friendship & intimacy with him; and this defendant further saith, that he was during several years of that period employed as one of the deputies or assistants of the said John in his said office, & in that capacity transacted for him a great variety of business. And this defendant further answering, saith, that over & above the business done by him for the said John in his official said station, & after the expiration of the said office of this defendant, which ended in or about the year one thousand seven hundred & sixty-six, this defendant assisted the said John in settling his public accounts, & in paying monies owing by him in relation to his said office, & was also occasionally entrusted with some of the private affairs of the

said John, which will be hereafter particularly explained, so far as they have in any wise relation to the matter in the said bill of complaint charged.

And this defendant further answering, doth say, that some time in or about the month of March, in the year one thousand seven hundred and sixty-six, this defendant received from Thomas Gage, Esqr., then commander in chief of his Britanic Majesty's Troops in North America, on the behalf of the said John, sundry setts of Bills of Exchange, all which are duly accounted for in the account & statement aforesaid, parcel of which said bills amounting to one thousand four hundred and seventy-six pounds thirteen shillings and four pence sterling, this defendant did put or place in the hands of one Beverly Robinson, formerly of the county of Dutchess, Esquire, now attainted and banished from this State by force of an act, entitled "An act for the forfeiture & sale of the estates of persons who have adhered to the enemies of this State, & for declaring the sovereignty of the people of this State in respect to all the property within the same," passed the twenty-second day of October, in the year one thousand seven hundred and seventy-nine, with instructions to the said Beverly Robinson to sell the said bills on account of the said John, & to credit the said John with the neat proceeds thereof, & with a promise from this defendant that he would request the said John to permit the said Beverly to keep the said money at interest by way of loan, in case the said John had not an immediate use for the same, whereof this defendant shortly thereafter did inform the said John, who entirely acquiesced in the disposition of the said bills, & the said Beverly Robinson did afterwards render an account to the said John of the sale & proceeds of the said bills, which, as credited by him to the said John, amounted to two thousand six hundred and fifty-three pounds eleven shillings and eight pence, of current money of New York, & *and* at an other time transmitted to the said John, together with an account current between the said Beverly and the said John, including a credit for the said bills, a bond or obligation from the said Beverly to the said John, conditioned for the payment of two thousand & ninety-five pounds seventeen shillings & seven pence half-penny, of like money aforesaid, as & for the balance of the said account, which Bond is noted in one of the inventories of the personal estate of the said John, hereinafter mentioned, in part whereof the said Beverly paid to this defendant as Executor of the said John, on or about the seventeenth day of December, in the year one thousand seven hundred and seventy-six, in the bill of credit emitted by Congress commonly called continental money, the sum of three thousand two hundred & fifty dollars, and the further sum of one thousand & ninety dollars, on or about the seventeeth day of Feb'ry, in the year one thousand seven hundred and seventy-seven, in the like bills of credit, amounting together to four thousand three hundred and forty dollars, which sum the defendant, in the same year one thousand

seven hundred and seventy-seven, placed on loan in the Loan office of the United States, in the city of Albany, for the amount whereof this defendant took certificates in his own name, and has since accounted for the same to the representatives of the said John, or some of them, together with the product of five years interest received thereon, will more fully appear by an account current between this defendant & the representatives of the said John, delivered to the said Charles, one of the complainants, in or about the month of February, in the year one thousand seven hundred & eighty-four, copy whereof in the schedule hereunto annexed marked B, this defendant prays may be taken as part of this his answer.

And this defendant further answering, saith, that he hath since payed the amount of the said certificate, & a considerable overplus in certificates, partly to the said Charles & partly to Messrs. Ludlow & Gould, of the city of New York, Merchants, Attorneys to Charles Goold of London, in the kingdom of Great Britain, who is the executor of the last will & testament of Mary Bradstreet, widow, & Martha Bradstreet, daughter, both devisees of the said John, as by another account in the schedule hereunto annexed, marked C, copy whereof hath been delivered some time in the year one thousand seven hundred and eighty-seven, to the said Ludlow & Goold, which this defendant prays may also be taken as part of this his answer, will more *more* particularly appear.

And this defendant further answering, saith, that some time in or about the month of July, in the year one thousand seven hundred and seventy-two, divers tracts of lands having been advertized for sale, for the payment of quit rents, pursuant to an act of the late Colony of New-York, entitled an Act for the more effectual collecting of his Majesty's Quit Rents, in the Colony of New-York, & partition of lands therein passed the eighth day of January, in the year one thousand seven hunderd and sixty-two; this defended proposed to the said John, to become a partner with this defendant, & others in the purchase of the said lands, to which the said John agreed, & this defendant for himself & in behalf of the said John, together with the persons named in the schedule hereunto annexed, marked D (which this defendant prays may be also taken as a part of this answer,) having purchased at public auction the several quantities of land specified in the schedule marked D (together with one other quantity of land, belonging to the heirs of Sir Peter Warren, which at the special request of said John, was shortly after released by the parties interested in the purchase thereof to Oliver De Lancy, then of the city of New-York, Esquire, for the benefit of the said heirs,) the said John paid by and through the hands of this defendant for his share of the lands so purchased, the sum of nine hundred and fifty-one pounds fourteen shillings and three pence, of like current money aforesaid, & at the same time lent to this defendant on his own proper account, the sum of one thousand three hundred pounds, which sum was applied by this defendant towards

the payment of his own share & the share of John M. Scott, another of the partners in the lands so purchased, as aforesaid. And this Defendant doth aver, that he at the same time of the said transaction gave credit to the said John, in account with this Defendant, for the said one thousand & three hundred pounds as a loan to this Defendant, & that the said sum formed one of the items, constituting the sum herein before stated to have been due & owing from this Defendant to the said John, on or about the said twenty-fourth day of July, in the year one thousand seven hundred and seventy-two. And this Defendant admits that he doth hold or claim in trust, for the representatives of the said John, or for the purposes of the will of the said John, the proportions of the said purchases specified in the said schedule marked D. And this Defendant further answering, saith, that the said John having declined being known in the transaction aforesaid, the interest of the said John therein was covered under the name of this Defendant. And this Defendant understood from the said John, that his reason for declining to be known in the said purchase, was that he was apprehensive that the same might give offence to the Duke of Grafton, who, or some of his family was, or was supposed to be interested in parcel ofthe said lands in the Manner of Cosby.

And this Defendant doth aver, that except the lands in the said schedule last mentioned, he hath never held or claimed, neither doth he now hold or claim any lands or tenements or real estate whatsoever in trust for the said John or the representatives of the said John; and that except in the purchases herein before acknowledged to have been made, this Defendant hath never directly or indirectly been employed or made use of by the said John to purchase any lands or tenements or real estate whatsoever in trust for him or to his use, and hath never received from him any monies for any such purpose.

And this Defendant further answering, doth admit that the said John Bradstreet, at or about the time in the said bill of complaint, for that purpose suggested, did make such last will & testament as is therein set forth, but this Defendant for greater certainty begs leave to refer to the original thereof in & among the records of the court of Probates of this State of New-York; also the probate thereof in the custody of this Defendant, & ready to be produced as your Honor shall direct. And that the said John soon after making such last will & testament died, that is to say, on or about the twenty-fifth day of September, in the year one thousand seven hundred and seventy-four, at the city of New-York. And this Defendant doth further admit, that this Defendant being named as executor in the said will, together with the said William Smith, did shortly after the death of the said John, cause his said will to be proved in due form of law, & did take upon himself the burden of executing the same, & that the said William Smith hath not qualified as executor of the said will, & hath no otherwise to the

knowledge & belief of this Defendant, intermeddled with the estate of the said John, than by taking, on or about the twenty-seventh day of September in the year one thousand seven hundred and seventy-four, being two days after the death of said John, together with this Defendant, the inventory, copy whereof in the schedule hereunto annexed marked E. this Defendant also prays may be taken as part of this his answer, & to which for greater certainty he refers himself. And this Defendant doth further admit, that the said William Smith, after the death of the said John, and before the time for that purpose in the said bill of complaint mentioned, did remove from this State, & at the same time was & ever since hitherto hath been absent from the same.

This Defendant hath understood & verily *believe* that *they* were large sums of money in the funds of Great Britain, & otherwise in that Kingdom belonging to the said John, which were taken possession of by Sir Charles Gould, of the said Kingdom of Great Brit*t*ain, by virtue or color of a certain will & testament of the said John, left in the said Kingdom of Great Brit*t*ain, but made prior to the one herein before mentioned, & as this Defendant is advised revoked thereby. But this Defendant nevertheless hath not taken any measures to get said monies out of the hands of the said Sir Charles Gould, because this Defendant hath understood that his holding & administering the same was agreeably to & approved by the said Mary Bradstreet, widow of the said John, in her life-time, & by the said Mary [Martha] Bradstreet, one of the daughters and devisees of the said John in her life time, & by said Charles & Agatha the complainants, and because this Defendant hath also been informed, & doth verily believe, that the said Mary Bradstreet, the widow, sometime in or about the thirty-first day of March, in the year one thousand seven hundred and eighty-two, departed this life, & and that the said Martha Bradstreet, some time in or about the twenty-second day of March, in the year last aforesaid departed this life, & that the said Mary & Martha before their deaths respectively, did respectively duly make their last wills & testaments, & therein & thereby did respectively constitute the said Sir Charles Gould the sole executor of these said respective last wills."

And this Defendant further saith, that the second declaration which he recollects to have made of the import of effect aforesaid, was contained in a certain case stated and submitted to Samuel Jones, of the city of New York, Esquire, Counsellor at Law, some time in the month of February, in the year one thousand seven hundred and eighty-four, whom this Defendant then considered as of Counsel for the representatives of the said John, which said case is in the words and figures following, to wit: Major General John Bradstreet died in September 1774, at New-York, leaving No 1, a will dated September 23d, 1774. On this will administration was granted to Philip Schuyler in September 1774. No 2, a will made by the

said Bradstreet on the 10th November 1754. On this will administration was granted to Sir Charles Gould in November 1774, by the Archbishop of Canterbury. General Bradstreet died, leaving two daughters, Martha and Agatha, the latter now married to Charles John Evans, Esquire. Martha died 22d March 1782, in England, leaving No 3, a will dated 15th May, 1781. General Bradstreet left personal estate in England. Personal estate in America, together with some real estate legally conveyed to him. A real estate held under Indian deeds, and one quarter part of sundry estates purchased by Philip Schuyler and others, the legal title of which quarter part is in Philip Schuyler, he never having released or conveyed to the said John Bradstreet, or his heirs, but intends to do it in such manner as the law directs, and has signified his intention to the heirs. On these wills he proposes the following questions—1st, Does the Will No 2, authorise Sir Charles Gould to hold the estate in England as executor appointed by that will. 2nd, If it does not, seeing he has it in his hands, will Mr. Schuyler be justified if he does not attempt to obtain it for the heirs of General Bradstreet and Martha his daughter. 3d, Mr. Schuyler earnestly wishes to put the several heirs into the possession of the estate; how can this be done with safety to himself and in conformity to the said Will No. I.

The personal estate in Mr. Schuyler's hands appears to him amply sufficient to discharge any just claims on the estate, unless there should be claims in Europe, of which he is not advised. A claim is made by Henry Glen and others, amounting to £1800 and upwards: from the inattention of General Bradstreet in his latter years, it does not appear from receipts *taken by him*, that the account is discharged; payments were however made by the General and accounts settled with Mr. Glen, and receipts given by individuals, by which it clearly appears all or nearly all was paid. But these papers will not suffice to extinguish the debt, unless Mr. Schuyler's testimony can be given; hence arises this question—Can Mr. Schuyler give his testimony if he is arrested as an executor? Can he give his testimony if the contest be referred to arbitrators? If he cannot, what course must he pursue that he may give his testimony? Does the will oblige Mr. Schuyler to sell the sundry estates?

And this Defendant further saith, that at the time the said case was delivered to the said Samuel Jones, there was still a specie balance in the hands of this Defendant due to the estate of the said John, of four hundred and twenty pounds twelve shillings and seven pence half penny, and also a balance of seventeen hundred and thirty-six pounds in certificates of the United States, commonly called Loan Office Certificates, with interest thereon from the tenth day of September, in the year one thousand seven hundred and eighty-two, besides the bonds aforesaid payable on the contingency aforesaid; and the *demand, and the demand* against the said Beverly Robinson, which according to this computation of this De-

fendant, then amounted with interest to one thousand seven hundred and seventy-seven pounds, seventeen shillings; wherefore this Defendant then still supposed that the personal estate of the said John in his hands would be sufficient to satisfy all just claims upon the estate of said John. And this Defendant thinks it probable that he may have made similar declarations to the said Charles, the Complainant, concerning the sufficiency of the said personal estate, but doth not believe that he hath at any time made any stronger declaration, either verbally or in writing concerning the same.

"And this Defendant further answering, saith, that since the statement & delivery of the said case, to the said Samuel Jones, he hath advanced & paid to the said Charles, the complainant, on account of the said estate, the sum of six hundred & eighty pounds five shillings & four pence, & to certain creditors of the said estate, the further sum of one hundred & seventy-six pounds, ninteen shillings & half penny, making together the sum of eight hundred & fifty-seven pounds fourteen shillings & four pence half penny, of current money aforesaid, in specie or the equivalent thereof, whereby this Defendant hath become in advance for the said estate the sum of four hundred & thirty-six pounds eleven shillings & nine pence of current money aforesaid. And this Defendant hath also, since the said time of the said delivery of the said case, not only paid to the said Charles, the complainant, and to Messrs. Ludlow & Gould, of the city of New-York, merchants, Attorneys, to the said Sir Charles Gould, executor of the said Mary & Martha Bradstreet, deceased, the full amount of the said one thousand seven hundred & thirty-six pounds & the interest thereon, then in the hands of the Defendant, in the certificates aforesaid, but hath also advanced to them a further sum in certain certificates amounting to eight hundred & seventy-four pounds."

"And this Defendant doth aver, that he has offered part of the said real estate for sale, at the written request of the said Charles, the complainant, to the end that the monies arising therefrom might be paid to him in right of his said wife, & hath also very lately referred divers persons, who have applied to him to purchase parts of the said real estate, to the said Charles, & the said Messrs. Ludlow & Gould, informing the said persons that he would confirm whatever agreement they should respectively enter into with the said Charles, & the said Ludlow & Gould; whence this Defendant hopes it will sufficiently appear that he hath had no design of prejudicing the representatives of the said John, by improper or precipitate sales of the said lands.

And this Defendant, desirous of acquitting himself of the trust reposed in him by the said will, of the said John, delivered the said Samuel Jones the state of the case herein before mentioned, for the purpose of obtaining his opinion, about the means of doing the same with safety to this Defendant, to which the said Samuel Jones

returned an answer in the words & figures following, to wit: Answer— I am of opinion that the will made by General Bradstreet in 1754, is revoked, by his last will made in 1774, & is therefore void. It was the duty of the acting executor of the last will to endeavor to get the money from Sir Charles Gould, & to apply it according to the will. But this he could not do, without proving the last will of General Bradstreet in England, & taking out letters testamentary upon it there. As the executors were not in England, either of the residuary legatees, upon proving the will, might have had letters of administration upon the estate of General Bradstreet in England, with his will annexed, during the absence of the executor, & such administrators would have been entitled to recover the money of Sir Charles Gould, & this I think is yet the only regular method to be pursued. Mr. Schuyler cannot put the heirs into the possession of the estate. He must sell the real estate, according to the will, & collect the personal estate, & after paying the debts, & particular legacies, pay one half the residue to Mr. Evans in right of his wife, and the other half to the executor of Martha Bradstreet. If Mr. Schuyler is sued as executor, he cannot be admitted as a witness in the cause. Perhaps he might by arbitrators, *in* case of a reference. But I would advise a reference between the legatees & Mr. Glenn, & then I think Mr. Schuyler will be an unexceptionable witness.

SAMUEL JONES.

New-York, 3*d March*, 1784.

(As by the same answer which appears to this Defendant to be in the hand-writing of the said Samuel, & ready to be produced as your Honor shall direct, will more certainly appear.) And this Defendant, in further pursuance of his desire to execute the said trust, have since caused a division to be made of the said lands, purchased by this Defendant at vendue aforesaid, except parcel thereof for which the Defendant have never received any deed, for which there is a suit now depending in this Honorable court between this Defendant & Henry Ten Eyck, the then sheriff, of whom the same was purchased, previous to which division, a map was made of the lands to be divided, & the lots drawn by indifferent persons to each proprietor, and designated on the said map, copies whereof & of a memorandum of the making, thereof subscribed by the parties, were to the best of this Defendant's recollection sometime in January or February, one thousand seven hundred & eighty-seven, delivered by this Defendant to the said Charles, the complainant, or the said Ludlow & Gould, whereby it will appear that the lots drawn for the said John are designated in his name, & which this Defendant hopes will serve as a further proof of the readiness of this Defendant, to appropriate the same to the use of the representatives of the said John, whenever a safe method could be devised for affecting the same; & this Defendant

further answering, saith, that after various consultations about some safe mode of finally settling the estate of the said John, in a manner that would be safe to this Defendant, & agreeable to his representatives, & which always, from the opinions of counsel learned in the law, presented no small embarrassment & difficulty, this Defendant in concert with the said Charles, the complainant, & the said Ludlow & Gould, as attorneys to the said Sir Charles Gould, put into the hands of the said Samuel Jones, & Richard Harrison & Alexander Hamilton, of the city of New-Nork, Counsellors at Law, some or one of them, the said last will & testament of the said John, together with copies of the said last wills & testaments of the said Mary & Marth Bradstreet, & a power of Attorney from the said Sir Charles Gould, as executor to the said Mary & Martha, to the end that they might jointly consider & devise some proper mode for making a settlement of the estate of the said John, & securing this Defendant, as far as might be practicable, from all risk therein by reason of his executorship aforesaid; in consequence whereof, this Defendant sometime in or about the month of November, in the year one thousand seven hundred & eighty-six, received a letter from the said Alexander Hamilton, bearing date the twentieth day of the same month November, in the year last aforesaid, of which the following is an abstract. I have considered with Mr. Harrison, & Mr. Jones, a method of settling Bradstreet's affairs in the safest method for you; it is that you sell his interest in the lands, which by a late act of the Legislature you are competent to. Mr. Ludlow may, and will become the purchaser; the price is not material, but for greater caution it will be best to agree upon such a price as land now sells for in the market. The sale will convert the interest into personal estate. Then Evans can represent his wife, & Sir Charles Gould the rest of the parties as executor of the two wills, & a settlement will of course be easy; as to debts, Ludlow & Gould will engage to indemnify you, as far as the share paid to them by behalf of Sir Charles Gould will go. And Evans, if you think it worth while, will give his Bond. Considering the little probability that debts to any extent exist, I think this kind of security may suffice, & as to a division of the lands, so far as to separate your interest, it can be made by agreement between you & the purchasers, say Mr. Ludlow. This plan has been approved by Mr. Jones, & Mr. Harrison, & seems to me free from any material objection, as by reference to the said letter in the hands of this Defendant, & ready to be produced as your Honor shall direct, will more certainly appear; & this Defendant doth aver, that he was ready and willing to comply with the mode mentioned in the said letter, & did signify such his willingness to the said Charles, & Ludlow, & Gould, or some or one of them; & this Defendant being in the city of New-York, in the winter following, the receipt of the said letter was informed by the said Ludlow & Gould, or one of them, that they would not

consent to secure this Defendant, for any debts he might hereafter be obliged to pay as executor to the said John, beyond the proportion of such debts to the shares of the estate of the said John, which the said Sir Charles Gould represented or claimed; wherefore it become advisable for this Defendant to require of the said Charles, the complainant, some competent security for the proportion of the said debts, which would be justly chargeable on the share of his said wife; & this Defendant did accordingly require of the said Charles such security as aforesaid, (this Defendant not thinking of the personal security of the said Charles, sufficient for that purpose.)"

And this defendant doth further deny that he ever purchased or became seised of, or entitled unto any real estate whatever, in or near the city of Albany, or in or near Schenectady, or elsewhere in trust for the said John, except as herein before stated, and that he did never as a trustee, for the said John, but in his own name or in the name or names of any other person or persons, place any sum or sums of money at interest, upon bond or mortgages or assignments thereof, or in any other manner, except as aforesaid; and that he had any sum or sums of money in his possession deposited with him merely as a trustee, to be applied and employed for the benefit of the said John, except as aforesaid. And this defendant hoping to be satisfied out of the said trust estate in his hands, for the said advances to the said representatives of the said John, doth hereby declare himself ready to proceed in the further execution of the trust reposed in him by the said John, in such manner as this honorable court shall direct, being indemnified therein. And this defendant denies all unlawful combinations and confederacy in the said bill charged, without that, that any other matter or things material or necessary for this defendant to make answer unto, and not herein or hereby well and sufficiently answered unto, confessed or avoided, traversed or denied, is true. All which matter and things this Defendant is ready to aver and prove as this honorable court shall direct and award, and humbly prays to be hence dismissed with his reasonable costs and charges in this behalf most wrongfully sustained.

PH. SCHUYLER.

Sworn this 3d day of March, 1789, before me,

JER'H. LANSING,

One of the Masters in Ch'y. for the State of New-York.

ALEXANDER HAMILTON,

Solicitor and of Counsel for Defendant.

C.

The Estate of the late General Bradstreet in account current with Philip Schuyler, the Executor, for monies received in Continental Paper Money.

DR.

1784		
September 13th.	To three loan office certificates for 600 dollars each, dated September 10th, 1777, and on which the interest to the 10th September, 1782, was paid as for specie account DD, to Charles John Evans, Esqr. 1800 dollars, - -	£720
	To one ditto, to ditto, dated the 6th June, 1777, & on which the interest was paid to the 10th September, 1782, for 400 dollars, - - - -	160
1786		
January 6th.	To 4 ditto for 600 dollars each, dated the 6th June, 1777, on which the interest to the 10th September, 1782, was paid DD, to Messrs. Gould & Ludlow 2400 dollars, - - - -	960
	To ballance from the other side to be paid in Loan office certificates issued from the Continental Loan office within this State, at any time prior to the first day of September, 1777, & bearing interest from the tenth of September, 1782, for 600 dollars, - - -	£104
1786		
January 6th.	To six Loan office certificates for 300 dollars each, dated February 1st, 1779, to be paid in Loan office certificates, issued from the Continental Loan office within this State, of that date, & bearing interest from that date, 1800 dollars,	720

CR.

1776		
December 7th.	By 3250 Dollars Continental Paper money received from Beverly Robinson, Esqr. & loaned to the United States on the 10th September, 1777, & for which the interest has been received by me in bills on France to the 10th September, 1782, & credited to the said estate, -	£1300
1777		
February 17th.	By 1090 Dollars do. do, - - -	436
	Balance carried to a new account, -	104

Or these two sums may be discharged the first by paying ⅓ of the interest to the first day of January, 1785, in paper money of this State, or specie, & the remaining ⅔ of that interest in certificates signed by Gerard Bancker, for interest payable the 1st day of May, 1787, and the principal in his certificates bearing interest to be paid annually from the 1st January, 1785. The second sum, when reduced to specie value by the Continental scale of depreciation, may be settled in like manner.

March 10th, 1787.

Errors Excepted.

PH. SCHUYLER.

D.

Besides the lands noted in my inventory of the late General Bradstreet's estate, the 5000 acres petitioned for as a field officer, having served in America during the late war, & the lands purchased from the Oneida Indians in 1768, the deed for which is lodged in the Secretary's office, the heirs of General Bradstreet are entitled to the following lands.

In the patent granted January 2d, 1734, to Joseph Worrell & 10 others, 22,000 acres, about 21,850 whereof bought by the General John M. Scott, Esqr., Rutger Bleecker, Esqr., & myself, the heirs of the General are entitled to about 5,462 acres,	5,462 acres.
In the patent of the same date to John Lyne & nine others for 20,000 acres, about 19,500 bought by me as aforesaid, - - - -	4,875 acres.
In the three tracts at the deep Kiln, granted May 19th, 1737, to David Abraham Schuyler & five others for 11,500 acres, I bought about 11,500, the heirs of the General entitled to about - -	2,875 acres.
In the Patent called Waggoner's Patent, granted Novemr. 4th, 1741, to John Groesbeck & eight others for 17,000 acres, bought by the General J. M. Scott, Rutger Bleecker, Jacob C. Ten Eyck & Volkert Peter Dow, Esqrs. & myself, we bought about 16,950 acres, but as part was immediately returned to Waggoner & others, their shares, the heirs of General will probably have about -	2,000 acres.

Note some small part of the three first mentioned tracts, the purchasers also agreed to release on repayment of a proportion of the purchase money with interest, so that the heirs of the late General Bradstreet will have in the whole between fourteen and fifteen

thousand acres, which I am to release unto them, & in case of my death my heirs are to do it.

Albany, November 29, 1774.

PH. SCHUYLER."

All of which we have by these presents exemplified, and the seal of our said Court of Chancery hereunto affixed.

Witness Samuel Jones, Chancellor of our said State at the City of New-York, this seventh day of May, in the year of our Lord one thousand eight hundred and twenty-seven, and of the Independence of the United States of America the fifty-first.

A Copy.

JOHN L. LAWRENCE,
Assistant Register.

I, Samuel Jones, Chancellor of State of New-York, do hereby certify that the seal annexed to the preceding Exemplification, is a true impression of the seal of the Court of Chancery of said State; that John L. Lawrence, whose name is subscribed to the attestation of the said exemplification, is the Assistant Register of said Court; and that the said attestation is in due form.

S. JONES."

Dated Albany, 14th January, 1828.

Schedule (G.)

"The People of the State of New-York, by the Grace of [L. S.] God, free and independent. To all to whom these presents shall come, Greeting: Know ye, that we having inspected the files of our Court of Chancery of our said State, do find certain interrogatories, with Commission and the oaths of the Commissioners and Clerk, and deposition of Wm. Smith attached, there remaining, which is in the words following, to wit:"—"Deposition of the Honorable William Smith, of the City of Quebec, in the Province of Lower Canada, Esquire, a witness produced, sworn and examined on the twenty-third day of July, in the year of our Lord one thousand seven hundred and ninety-three, at the house of the Honorable William Smith, Esquire, situate in the said city of Quebec, by virtue of a Commission issuing out of the Court of Chancery in the State of New-York, to us, Simon Fraser, John Blackwood, and John Collins, Esquires, and others directed, for the examination of witnesses, in a cause there depending wherein Charles John Evans, and Agatha his wife are Complainants, and Philip Schuyler, Esquire, Defendant, on the part of the Complainants—We the acting Commissioners under the said Commission, and also the Clerk by us employed in taking, writing, transcribing, and engrossing the said deposition, having first duly taken the

oaths annexed to the said Commission according to the tenor and effect thereof, and as thereby directed."

"*Fourth.* To the fourth interrogatory this deponent saith that about July, one thousand seven hundred and seventy-two, John Morin Scott, Esquire, then just returned from Albany, informed this deponent by a note or letter, that while there "A number of Patents were sold for payment of Quit Rents, among these Warren's Tract near Fort Hunter, the two Tracts of Cosby, the Tract commonly called Wagonaers Tract, and three Tracts at the Deep Kiln, by Mr. Schuyler himself and some others in company, and that they desire the deponent to be retained to them. That the deponent understood, but in what way informed he does not recollect, that General Bradstreet was one of the company, and that he advanced Mr. Scott's part of the purchase money."

(Endorsed) "7 October, 1793, upon the oath of Maturin Livingston, Esqr. before James M. Hughes.

JOHN W. WATKINS,
Compt's Clerk.

All which we have caused by these presents to be exemplified, and the seal of our said Court of Chancery to be hereunto affixed.

Witness Samuel Jones, Chancellor of our said State, at the City of New-York, the twenty-first day of November, in the [L. S.] year of our Lord one thousand eight hundred and twenty-seven, and of the Independence of the United States of America the fifty-second.

JOHN L. LAWRENCE,
Assistant Register.

I, Samuel Jones, Chancellor of the State of New-York, do hereby certify that the seal affixed to the preceding exemplification, is a true impression of the seal of the Court of Chancery of said State; That John L. Lawrence, whose name is subscribed to the attestation of the said exemplification, is the Assistant Register of said Court; and that the said attestation is in due form.

S. JONES."

Dated Albany, 14th Janury, 1828.

(Schedule H.)

"This Indenture, made the sixteenth day of May, in the year of our Lord one thousand seven hundred and ninety-four, between Philip Schuyler of the county of Albany, in the State of New York, Esquire, executor of the last will and testament of John Bradstreet, deceased, and hereinafter mentioned, of the one part, and Agatha Evans, of the city of New York, in the said State of New York, widow, one of the daughters of the said John Bradstreet, deceased, and Edward Goold, of the same place, merchant, attorney to Sir Charles Goold, Knight, the only executor of the last will and

testament of Martha Bradstreet, deceased, the other daughter of the said John Bradstreet, of the other part: *whereas*, the said John Bradstreet, formerly a Major General in the army of the King of Great Britain, being of sound and disposing mind and memory, did, on or about the twenty-third day of September, in the year of our Lord one thousand seven hundred and seventy-four, make and publish his last will and testament, in due form of law, in the presence of three credible witnesses, and after certain legacies and bequests in the same contained, did thereby devise and bequeath all the rest of his estate, real and personal, to his two daughters, equally to be divided between them as tenants in common, in fee, but charged the same with the payment of one hundred pounds sterling to their mother during life, and did further, in and by the said will, notwithstanding the former devise for the benefit of his wife and daughters, empower his executors to do all acts, and execute all instruments, which they may conceive to be requisite to the partition of his landed estate, and devised the same to them as joint-tenants, to be by them sold, at such time, and in such manner as they should think most for the interest of his daughters, to whom the nett proceeds was directed to be paid in equal shares, the sum of one hundred pounds sterling per annum being first deducted, or a capital to secure the same, set apart *as* an annuity to his wife, as aforesaid, and appointed for the execution of the said will the aforesaid Philip Schuyler, and William Smith, Esquires, of New York, as in and by the said last will and testament, or the registry thereof, in the Probate Office of the State of New York, reference being thereunto had, may appear: *And whereas* the said Philip Schuyler was, at the time of the making the said will, and from thence to the decease of the said John Bradstreet, seised in fee, as a tenant in common, of and in two equal undivided fourth parts of and in all that parcel of a certain tract of land formerly situate in the county of Albany, but now in the county of Herkimer, on both sides of the Mohawk river, granted by letters patent under the great seal of the late colony of New York, bearing date the second day of January, in the year of our Lord one thousand seven hundred and thirty-four, to Joseph Worrell and others, which parcel of land aforesaid is comprehended in the following boundaries, to wit: Beginning at a certain place on the south side of the Mohawk river, and the west side of a brook called Sedaghqueda, where the said brook falls into the said river, and runs then south thirty-eight degrees west, two hundred and eleven chains and forty-one links; thence south fifty-two degrees east, four hundred and eighty-three chains; thence north thirty-eight degrees east, four hundred and fifty-three chains and forty-one links; thence north fifty-two degrees west, four hundred and eighty-three chains; thence south thirty-eight degrees west, two hundred and forty-two chains, to the place of beginning; containing twenty-one thousand nine hundred acres, as to one equal, undivided fourth part of which said tract of

land, the said Philip Schuyler was seised in trust for the said John Bradstreet as aforesaid: *And whereas* the said Philip Schuyler, at the time of making the said will, and from thence to the decease of the said John Bradstreet, was also seised in fee, as a tenant in common, of and in one equal, undivided moiety or half part of and in all that parcel of a certain tract of land formerly situated in the county of Albany, but now in the county of Herkimer, on both sides of the Mohawk river, granted by letters patent, under the great seal of the late colony of New-York, bearing date the second day of January, in the year of our Lord one thousand seven hundred and thirty-four, to John Lyne and others, which parcel of the tract aforesaid is comprehended in the following boundaries, to wit: Beginning at the most southerly corner of a tract of land, surveyed for Joseph Worrell and others, and running thence south fifty-two degrees east, four hundred and fourteen chains and ninety-two links; then north thirty-eight degrees east, four hundred and eighty chains; then north fifty-two degrees west, four hundred and fourteen chains and ninety-two links; then south thirty degrees west four hundred and eighty chains, to the place of beginning; comprehending in the said bounds one thousand one hundred acres, formerly granted to John Jurck Korst, which are excepted; and the same parcel of the said tract contains nineteen thousand nine hundred acres, as to one equal undivided fourth part of which said parcel of the said tract of land, the said Philip Schuyler was seised in trust for the said John Bradstreet, as aforesaid.

And whereas also the said Philip Schuyler, at the time of making the said will, and from thence to the decease of the said John Bradstreet, was also seised in fee of all those lots, part of all that certain tract or parcel of land, formerly situate, lying and being in the county of Albany, but now in the county of Otsego, on the south side of the Mohawk river, and on the bank of a lake from whence a large branch of Susquehannah river issues, granted by letters patent under the great seal of the late Colony of New-York, bearing date the fourth day of November, in the year of our Lord one thousand seven hundred and forty-one, unto John Groesbeck and others, which said lots were distinguished by the numbers one, two, four, six, eight, nine, ten, eleven, twelve, thirteen, fifteen, eighteen, nineteen, twenty, twenty-one, twenty-six, twenty-eight, thirty-two, thirty-three, thirty-four, thirty-five, thirty-nine, forty-one, forty-two, forty-three, forty-four, forty-six, forty-seven, forty-eight, forty-nine, fifty, fifty-one, fifty-two, fifty-three, fifty-four, fifty-six, sixty, sixty-one, sixty-two, sixty-eight, and a lot commonly called the undivided lot, as to one equal undivided sixth part of which said lots of land last mentioned, the said Philip Schuyler was seised in trust for the said John Bradstreet, as aforesaid.

"*And whereas* also the aforesaid William Smith having departed this life, the said Philip Schuyler hath become the sole surviving executor of the said last will and testament of the said John Brad-

street: *And whereas* the said Agatha Evans is one of the daughters of the said John Bradstreet mentioned in his last will and testament: *And whereas* Marthar Bradstreet, the other daughter of the said John Bradstreet, mentioned in his last will and testament, did, on or about the fifteenth day of May, in the year of our Lord one thousand seven hundred and eighty-one, make and publish her last will and testament in due form of law, in the presence of three credible witnesses, and did therein and thereby, after certain bequests, devise her real estate after her mother's decease, who is since dead, and whatsoever she might in any wise be entitled to, as follows, to wit, one equal third part thereof to her sister Elizabeth Livius, her heirs and assigns forever, to be at her own disposal, and independent of her husband by will or otherwise: one other equal third part to Samuel Bradstreet and Martha Bradstreet, children of her late brother Samuel Bradstreet, deceased, and to their heirs and assigns forever, equally to be divided between them, and with benefit of survivorship in case of the death of either *of* them before the age of twenty-one years; but in case of the death of both in their minority, the said one third to be equally divided between sister Agatha Du Bellamy, now the said Agatha Evans, and Elizabeth Livius, and to vest in them respectively in like manner as the one third part devised to each of them; but it was her will that the produce of the said one third part of her estate, and if necessary, part of the principal, should be appropriated to the maintenance and education of the said Samuel and Martha during their infancy; and as to the remaining one third part of her estate, she did give and devise the produce, income and profits of the same to her said sister Agatha, wife of Charles Du Bellamy, for and during her life and at her own disposal, and altogether independent of the control of her said husband; and in case she should survive him, then she gave and devised the said one third part to her said sister and to her heirs and assigns forever; but if her said sister should die before her said husband, leaving at the time of her death any child or children living, she did in that case give and devise the aforesaid one third part to such child or children from and immediately after her said sister's decease, to the only proper use and behoof of such child or children, and to his, her and their heirs and assigns forever, equally to be divided between them, as tenants in common; and if it should happen that her said sister Agatha should, by surviving her said husband, become seised of the fee simple and absolute property of her share, and yet should die without making any disposition thereof, or in case her issue should become so vested and should die under age or without disposing thereof, or if her said sister should die in her husband's lifetime, leaving no child or children, in either of those events she did give and devise the said share to her sister Elizabeth Livius and to her heirs and assigns, and in like manner if her said sister Elizabeth should die without disposing of her share, and leaving no issue at the time of her decease, she did give and

devise her share to her sister Agatha and her heirs and assigns forever; and of her said will the said testatrix did constitute and appoint Sir Charles Goold, Knight, sole executor, and did authorise her said executor to sell and dispose of such real estate as she might be entitled to in North America or elsewhere, and to execute conveyances for the same as in and by the said last will and testament, reference being thereunto had, may appear: *And whereas* partition hath been made among the proprietors of the said several parcels of the said tracts and lots of land whereof the said Philip Schuyler was so as aforesaid a tenant in common: *And whereas* upon such partition the lots numbered six, ten, eighteen, twenty-one, seventy-seven, seventy-eight, seventy-nine, eighty-nine, ninety, ninety-one, ninety-five, ninety-six and ninety-seven, the north half of lot number two, and the undivided moiety or half part of lots number three, eleven, nineteen and twenty-seven, parts of the tract of land herein before first mentioned, so as aforesaid, granted to Joseph Worrell, and others, fell to the share of the said Philip Scuhyler, as a trustee for the said John Bradstreet as aforesaid, and were duly conveyed to him, with other lots and parts of lots in the same tract which fell to him in his own right by indenture, bearing date the nineteenth day of December, in the year of our Lord one thousand seven hundred and eighty-six: *And whereas* upon such partition the lots numbered twenty-nine, thirty-five, thirty-seven, thirty-nine, forty-three, forty-seven, fifty-seven, fifty-eight, fifty-nine, sixty, sixty-one and seventy-seven, in the tract of land herein before mentioned to have been granted to John Lyne and others, fell to the share of the said Philip Schuyler, as a trustee for the said John Bradstreet as aforesaid, and were duly conveyed to him, the said Philip Schuyler, in severalty with other lots in the same tract which fell to him in his own right by indentures, bearing date the twenty-seventh day of November, in the year of our Lord one thousand seven hundred and eighty-six, as in and by the said indentures, reference being thereunto had, may appear.

"*And whereas* also, upon such partition, the lots numbered twenty-six, thirty-two, thirty-four, forty-three, and fifty-two, and the south moiety or half part of lot number one, in the tract of land herein before mentioned to have been granted unto John Groesbeck and others, fell to the share of the said Philip Schuyler, as a trustee for the said John Bradstreet, as aforesaid, and were duly conveyed to him, the said Philip Schuyler, in severalty with other lots in the same tract, which fell to him in his own right by indenture bearing date the twenty-seventh day of November, in the year of our Lord one thousand seven hundred and eighty-six, as in and by the same indenture, reference being thereunto had, may appear: And whereas also, the said Philip Schuyler, at the time that he, the said John Bradstreet, made and published his said last will and testament, and from thence to the time of his decease, was as a trustee for the said John Bradstreet seised in fee or entitled to one

undivided equal fourth part of all that, those three certain tracts or parcels of land situate, lying and being in the county of Rensselaer on the east side of Hudson's River, the first of which tracts begins at a certain marked tree, standing on the bank of Hudson's River, and being on a line running south five degrees west from the mouth of a certain brook called the Deep Kiln, forty-one chains distant from the mouth of the said brook where it falls into Hudson's River, and from the said marked tree runs south sixty-eight degrees and thirty minutes east one hundred and fifty-eight chains and two rods; then south thirty-one degrees and thirty minutes east one hundred and sixty-eight chains and two rods; then north seventy-four degrees and thirty minutes east, one hundred and seventy-six chains; then north ten chains; then north sixty-eight degrees west, one hundred and ninety-seven chains; then north twenty-nine degrees and thirty minutes west, one hundred and eighteen chains; then south eighty-six degrees east, near two hundred and sixty-two chains, to the land there granted to John Depeyster; then along the bounds thereof north two degrees and thirty minutes west, sixty-three chains; then north eighty-three degrees west, forty-seven chains; then north thirty-two degrees and thirty minutes east, thirty-five chains, to the tree from whence the bounds of the said tract of land granted to the said John Depeyster and lately in the possession of Johannes Becker, takes its beginning; thence south eighty six degrees west, three hundred and forty-two chains to Hudson's River, and then down the stream of the said river to the place where the said first tract began. The second of the said tracts begins at the north-east corner of the aforesaid tract of land lately in the possession of the said Johannes Becker, and runs thence along the bounds of the said tract south twenty degrees east sixty-four chains; then north eighty-two degrees east sixty-one chains; then south twelve degrees east eighty chains and sixty links; then north thirty-five degrees east one hundred and one chains; then north eighty-six degrees and thirty minutes east eighty-five chains; then north three degrees forty minutes west seventy-eight chains; then south eighty-seven degrees west two hundred and thirty chains; then south seventy-two degrees west nineteen chains, to a certain brook called Tomehawk; then up the stream of the said brook, to the said tract of land now in the possession of the said Johannes Becker; and then along his bounds north eighty degrees east, to the place where the said second tract began. And the third of the said tracts begins at a certain place which is three hundred and thirty-eight chains, measured on a line running north sixty-six degrees and fifteen minutes east from a certain marked tree, standing in the east line, run for the north bounds of the Manor of Ranslaerwick, and on the east side of the aforesaid brook called *Towhemack*, and runs from the said place of beginning north forty-one degrees east sixty-nine chains; then south fifty-eight degrees east forty-one chains; then north sixty-six degrees east one hundred and sixteen chains;

then south forty-four degrees and thirty minutes east forty-five chains; then north seventy-two degrees east thirty-five chains; then north ten degrees seventy-four chains and forty links; then north fifteen degrees west one hundred and twenty-six chains; then north thirty-four degrees west one hundred and nine chains and two rods; then north seventy-two chains; then east twenty-two chains; then south thirty-nine chains and two rods; then south thirty-three degrees and thirty minutes east one hundred and twenty-six chains; then south eighty-five chains and one rod; then south twenty-six degrees and fifteen minutes east fifty-eight chains; then south eleven degrees west one hundred and twenty-seven chains; then south sixty-seven degrees and thirty minutes east one hundred and forty six chains; then south fifty-seven chains; then west thirty-one chains; then north thirty-six chains; then north fifty-three degrees west fifty-seven chains; then north eighty-two degrees and forty minutes west ninety chains; then south eighty-nine degrees west one hundred and eight chains; then south fifty-one degrees and fifteen minutes west ninety chains; then north thirty-two degrees and thirty minutes west ninety-eight chains, to the place where the said tract began: the said three tracts containing in all, eleven thousand two hundred and fifty acres of land, and the usual allowance for highways.

"Now, therefore, this indenture witnesseth, that the said Philip Schuyler, as well to invest the said Agatha Evans with a legal title to her proportion of her said lands and tenements, devised to her by virtue of the will of the said John Bradstreet and Martha Bradstreet, as to convey the rest and residue thereof to the said Edward Goold, in trust for the several persons who may be entitled to the benefit thereof, under the will of the said Martha Bradstreet, and also for and in consideration of the sum of ten shillings, current money of the State of New-York, to him in hand well and truly paid by the said Agatha Evans and Edward Goold, before the ensealing and delivary of these presents, the receipt whereof is hereby acknowledged, and thereof and of and from every part and parcel thereof he doth hereby acquit, release, exonerate and forever discharge the said Agatha Evans and Edward Goold, their heirs, executors, administrators and assigns forever, by these presents and by virtue also of the powers and authority with which he is so as aforesaid invested, and of all other powers which he may lawfully claim or exercise, hath granted, bargained, sold, aliened, released and confirmed, and by these presents doth grant, bargain, sell, alien, release and confirm clearly and absolutely unto the said Agatha Evans, and to their heirs and assigns forever, all those several lots, pieces or parcels and undivided parts of land which so as aforesaid fell to or constitute the share of the said Philip Schuyler, as a trustee for the said John Bradstreet, in the several tracts of land so as aforesaid mentioned to have been granted to the said Joseph Worrel and others, and to the said John Lyne and others,

and to the said John Groesbeck and others, that is to say, lot number six, part of the tract of land granted to Joseph Worrel and others, as aforesaid, beginning at the south-west corner of lot number five, and runs thence north thirty-eight degrees east to the north-eastermost bounds of the said patent, thence south fifty-two degrees east thirteen chains and thirty links, thence south thirty-eight degrees west, to the middle of the stream of the said river, and thence up the middle of the stream of the said river to the place of beginning, containing four hundred acres of land; lot number ten of the said tract begins at the south-west corner of lot number nine, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent, thence south fifty-two degrees east, sixteen chains and twenty links, thence south thirty-eight degrees west, to the middle of the stream of the said river, and thence up the middle of the stream of the said river to the place of beginning, containing four hundred acres of land; lot number eighteen of the same tract, begins at the south-west corner of lot number seventeen, and runs thence north thirty-eight degrees east, to the north-eastermost bounds of the said patent, thence south fifty-two degrees east, sixteen chains and twenty links thence south thirty-eight degrees west, to the middle of the stream of the said river, and thence up the middle of the stream of the said river to the place of beginning, containing four hundred acres of land; lot number twenty-one aforesaid of the same tract, begins at the south-west corner of lot number twenty, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent, thence south fifty-two degrees east twenty chains and forty-five links, thence south thirty-eight degrees west, to the middle of the stream of the said river, and thence up the middle of the stream of the said river to the place of beginning, containing four hundred acres of land; lots number seventy-seven, seventy-eight and seventy-nine, of the said tract, begins at the south-east corner of lots number eighty, eighty-one and eighty-two, and runs thence south thirty-eight degrees west, to the south-west corner of the said last mentioned lots, thence south fifty-two degrees east, twenty-eight chains and nine links, thence north thirty-eight degrees east, to the middle of the stream of the said river, and thence up the middle of the stream of the said river to the place of beginning, containing one thousand two hundred acres of land; lots number *eighty-nine*, *ninety and ninety-one*, of the same tract, begins at the south-east corner of lots number ninety-two, ninety-three, and ninety-four, and run thence south thirty-eight degrees, west to the south-west corner of the said last mentioned lots, thence south fifty-two degrees, east forty-eight chains and six links; then north thirty-eight degrees east, to the middle of the stream of the said river, and thence up the stream of the said river to the place of beginning, containing one thousand two hundred acres of land; lots number *ninety-five*, *ninety-six*, *and ninety-*

seven, of the same tract, begins at the south-east corner of lots number ninety-eight, ninety-nine, and one hundred, and run thence south thirty-eight degrees west, to the south-west corner of the said last mentioned lots, thence south fifty-two degrees east, forty-eight chains and seventy-seven links, thence north thirty-eight degrees east, to the middle of the stream of the said river, and thence up the middle of the stream of the said river to the place of beginning, containing one thousand two hundred acres of land; the north half of lot number two, which lot number two in the same tract begins at the south-west corner of lot number one, and runs thence north thirty-eight degrees, east to the northermost bounds of the said patent, thence south fifty-two degrees east, sixteen chains and nine links, thence south thirty-eight degrees west to the middle of the stream of the said river, and thence up the middle of the stream of the said river to the place of beginning, containing four hundred acres of land; the undivided moiety or half part of lot number three in the same tract, which lot begins at the south-west corner of lot number two, and runs thence north thirty-eight degrees east, to the north-eastermost bounds of the said patent, thence south fifty-two degrees east, sixteen chains and thirty-nine links, thence south thirty-eight degrees west, to the middle of the stream of the said river, thence up the middle of the stream of the said river to the place of beginning, containing four hundred acres of land; the undivided moiety or half part of lot number eleven in the same tract, which lot number eleven begins at the south-west corner of lot number ten, and runs thence north thirty-eight degrees east, to the north-eastermost bounds of the said patent, thence south fifty-two degrees east, seventeen chains and twenty links, thence south thirty-eight degrees west, to the middle of the stream of the said river, thence up the middle of the stream of the said river to the place of beginning, containing four hundred acres of land: the undivided moiety or half part of lot number nineteen, part of the said tract, which lot number nineteen begins at the south-west corner of lot number eighteen, and runs thence north thirty-eight degrees east, to the north-eastermost bounds of the said patent, thence south fifty-two degrees east, sixteen chains and eighty-seven links, thence south thirty-eight degrees west, to the middle of the stream of the said river, and thence up the middle of the stream of the said river, to the place of beginning, containing four hundred acres of land; and the undivided moiety or half part of lot number twenty-seven, which said lot number twenty-seven begins at the south-west corner of lot number twenty-six, and runs thence north thirty-eight degrees east, to the north-eastermost bounds *bounds* of the said patent, thence south fifty-two degrees east, nineteen chains and ninety-five links, thence south thirty-eight degrees west, to the middle of the said river, and thence up the middle of the stream of the said river to the place of beginning, containing four hundred acres of land; lot number twenty-nine, part of the said tract granted to

John Lyne and others, begins in the middle of the stream of the said Mohawk river in the north-west boundary line of the said tract of land granted by letters patent as aforesaid to John Lyne and others, and running thence north thirty-eight degrees east, to the north-eastermost boundary line of the said tract of land, thence south fifty-two degrees east, twenty chains and forty links, thence south thirty-eight degrees west, to the middle of the stream of the said river, thence up the middle of the stream of the said river to the place of beginning, containing four hundred acres of land; lot number thirty-five of the same tract begins at the south-west corner of lot number thirty-four, and runs thence north thirty-eight degrees east eighty-two chains, thence south twenty-nine chains and twenty links, thence south thirty-eight degrees west, fifty-one chains, to the middle of the stream of the said river, and thence up the middle *the of* stream of the said river to the place of beginning, containing one hundred and *and* twenty-five acres; lot number thirty-seven in the same tract begins at the north-west corner of lot number thirty-three, thence runs north thirty-eight degrees east, one hundred and nine chains, thence south fifty-two degrees east, thirty-five chains and seventy-nine links, thence south thirty-eight degrees west, one hundred and nine chains, and thence north fifty-two degrees west, thirty-five chains and seventy-nine links to the place of beginning, containing four hundred acres of land; lot number thirty-nine in the same tract, begins at the south-east corner of the lot number thirty-eight, and runs thence north thirty-eight degrees east, one hundred and nine chains, thence south fifty-two degrees east, thirty-five chains and seventy-nine links, thence south thirty-eight degrees west, one hundred and nine chains, and thence north fifty-two degrees west, to the place of beginning, containing four hundred acres of land; lot number forty-three in the same tract, begins at the south-east corner of lot number forty-two, and runs thence north thirty-eight degrees east, one hundred and eighty-two chains and fifty links, thence south fifty-two degrees east, twenty chains and twenty-six links, thence south thirty-eight degrees west, one hundred and ninety-one chains and fifty links, to the middle of the stream of the said Mohawk river, thence up the middle of the stream of the said river to the bounds of the said land granted to John Jurk Korst, thence north three chains to the place of beginning, containing four hundred acres of land; lot number forty-seven in the same tract, begins at the south-east corner of lot number forty-six, and runs thence north thirty-eight degrees east to the north corner of the said lot number forty-six, thence south fifty-two degrees east, seventeen chains ninety links, thence south thirty-eight degrees west, to the middle of the stream of the said river, and thence up the middle of the stream of the said river to the place of beginning, containing four hundred acres of land; lots number fifty-seven and fifty-eight in the said tract, beginning at the north-east corner of lots number fifty-five and fifty-six, thence south thirty-eight degrees

west, corner of the said lots numbers fifty-five and fifty-six, thence south fifty-two degrees west, thirty chains and sixty links, thence north thirty-eight degrees east, to the middle of the stream of the said Mohawk river, and thence down the middle of the said stream to the place of beginning, containing eight hundred acres of land; lots number fifty-nine, sixty and sixty-one in the same tract, begin at the north-east corner of lot number fifty-seven and fifty-eight aforesaid, and runs thence south thirty-eight degrees west, to the north-west corner of the said lots fifty-seven and fifty-eight, thence north fifty-two degrees west, forty-five chains and thirty-three links, thence north thirty-eight degrees east, to the middle of the stream of the said Mohawk river, and thence down the stream of the said river to the place of beginning, containing one thousand two hundred acres of land; and lot number seventy-seven in the same tract begins at the north-east corner of the lots number seventy-four, seventy-five and seventy-six, thence runs south thirty-eight degrees west, to the north-west corner of the said lots number seventy-four and seventy-five and seventy-six, thence north fifty-two degrees west, fourteen chains and sixty-one links, thence north thirty-eight degrees east, to the middle of the stream of the said river, thence down the middle of the stream of the said river to the place of beginning, containing four hundred acres of land; all which courses are to be run as the magnetic needle pointed in year of our Lord one thousand seven hundred and sixty-two; *of* number twenty-six in the tract granted to John Grosebeck and others as aforesaid, begins at the south-west corner of lot number twenty-five, and runs thence south, sixty degrees east, one hundred and thirty-four chains, thence south thirty degrees west, thirty chains and twelve links, thence north sixty degrees west, one hundred and thirty-four chains, thence north thirty degrees east, thirty chains and twelve links to the place beginning, containing four hundred acres of land; lot number thirty-two in the same tract, begins at the south-west corner of lot number thirty-one, and runs thence south sixty degrees east, to the south boundary line of the said patent of John Grosebeck and others, thence south seventy-two degrees west, sixty-three chains and seventy-five links to lake Otsego, thence along the said lake to the place of beginning, containing four hundred and six acres of land; lot number thirty-five in the same tract begins at the south-east corner of lot number twenty-eight, and runs thence south sixty degrees east, one hundred and thirty-four chains, then north thirty degrees east, fifteen chains, and fifty-five links, then north sixty degrees west, one hundred and thirty-four chains, thence south thirty degrees west, fifteen chains and fifteen links to the place of beginning, containing two hundred and eight acres of land; lot number forty-three in the same tract begins at the north-west corner of lot number forty-two, and runs thence south sixty degrees east one hundred and thirty-four chains, thence north thirty degrees east, fifteen chains

and fifty-five links, then north sixty degrees west, one hundred and thirty-four chains; thence south thirty degrees west fifteen chains and fifty-five links, to the place of beginning, containing two hundred and eight acres of land; lot number fifty-two, in the same tract, begins at the north-west corner of lot number fifty-one, and runs thence south sixty degrees east one hundred and thirty-four chains; thence north thirty degrees east, fifteen chains and fifty-five links; thence north sixty degrees west one hundred and thirty-four chains; thence south thirty degrees west fifteen chains and fiftv-five links, to the place of beginning, containing two hundred and eight acres of land; and the south moiety or half part of lot number one in the same tract, the said lot number one beginning at the north-east corner of the land granted by the letters patent last aforesaid, and running thence north sixty degrees west seventy chains; thence south thirty degrees west one hundred and ten chains and fifty links; thence south sixty degrees east eight chains; thence north thirty-seven degrees and thirty minutes east nineteen chains eighty-eight links; thence north sixty-one degrees east one hundred and ten chains, to the place of beginning, containing four hundred and twelve acres of land; and also all that full and equal, undivided fourth part of all that the aforesaid three certain tracts or parcels of land, situate, lying and being in the county of Rensselaer, on the east side of Hudson's river aforesaid, herein before particularly described, containing in all, eleven thousand two hundred and *and* fifty acres of land and the usual allowance for highways; with the right, members and appurtenances, together with all houses, out-houses, edifices, buildings, orchards, gardens, lands, meadows, commons, pastures and common of pastures, feeding woods, underwoods, ways, pathes, waters, water courses, easements, profits, commodities, advantages, emoluments and hereditaments whatsoever, to the said lots or undivided parts of lots of land, and to the said undivided part of the said parcel of land, or any of them, belonging or in anywise appertaining, or which to and with the same now and *or* at any time heretofore have been held, used, occupied, accepted, reputed, taken, known, used, occupied or enjoyed, as part or parcel or member thereof, or of any part thereof; and the reversion and reversions, remainder and remainders, rents, issues and profits of all and singular the said premises, and every part and parcel thereof, with the appurtenances, and also all the estate, right, title, interest, property, claim and demand whatsoever, in law or equity, of him the said Philip Schuyler, of, in and to, all and singular the said premises and every part and parcel thereof, with the appurtenances above mentioned, to be granted hereby. To have and to hold, all and singular the said lots, undivided moieties of lots, and the said undivided equal fourth part of the said parcel of land, except as above excepted; and all the tenements, hereditaments and premises above, in and by these presents released and confirmed, and every

part and parcel thereof, with the appurtenances, unto the said Agatha Evans and Edward Goold, their heirs and assigns, in manner following, that is to say: two equal undivided third parts of the said undivided moieties of lots, and of the undivided fourth part, except as above excepted, and of all other the premises, unto the said Agatha Evans, her heirs and assigns, to her and their only proper use and behoof forever; and the remaining equal, undivided third part thereof, unto the said Edward Goold, his heir and assigns, to his and their proper use and behoof forever, but upon the following trusts, that is to say: to sell the same from time to time, as may be most expedient, and every or any parcel thereof, and after deducting the charges of sale and other contingent expenses attending the said trust, to divide the residue of the money to arise from such sale, to and among the said devisees, Samuel Bradstreet and Martha Bradstreet, and the said Elizabeth Livius, and their heirs, executors and administrators, according to their several interests in the estate of the said Martha Bradstreet, by virtue of her will, or to such persons as would be entitled thereto, upon the happening of any of the said contingencies in the said will mentioned, affecting in anywise their proportion of the same estate; and provided, also, that the same shall express and contain the trusts herein before mentioned, as to the one equal, undivided third part of the premises, and every part thereof. And the said Philip Schuyler, for himself, his heirs, executors and administrators, doth covenant, grant, promise and agree, to and with the said Agatha Evans and Edward Goold, their heirs and assigns, that he, the said Philip Schuyler, hath not, nor hath or have any person or persons, by authority from him since the decease of the said John Bradstreet, done or committed any act or acts whereby the estate of the said Agatha Evans and Edward Goold, in the premises above released, or any part or parcel thereof, may be in any manner charged or incumbered, and also that he, the said Philip Schuyler and his heirs shall and will from time to time, and at all times hereafter, upon the reasonable request, and at the proper costs and charges in the law, of the said Agatha Evans and Edward Goold, their heirs and assigns, make, do, seal and execute, or cause to be made, done, sealed and executed, all and every such further and other lawful and reasonable act and acts, thing and things, conveyance and conveyances in the law, whatsoever, for the further, better and more perfect granting, conveyancing, releasing, confirming and assuring of all and singular the premises aforesaid, with the appurtenances and every part thereof, unto the said Agatha Evans and Edward Goold, their heirs and assigns, to the only proper use and behoof of the said Agatha Evans and Edward Goold, their heirs and assigns forever, as by the said Agatha Evans and Edward Goold, their heirs or assigns, or their counsel, learned in the law, shall be reasonably devised, advised, *advised*, required: *Provided*, however, that such assurances are not to contain any covenants on

the part of the said Philip Schuyler, or his heirs, by which he or they may be made answerable, or liable for any act or acts, in respect to the above premises or any part thereof, other than those by him or them done and performed: also, that the same shall express and contain the trusts herein before mentioned, as to the one equal, undivided third part of the premises and every part thereof.

"*In witness whereof*, the said parties to these presents have hereunto interchangeably set their hands and seals, the day and year first above written.

PH. SCHUYLER, *Ex'r*. [L. S.]

Sealed and delivered in the presence of us:

("The words *parcel of*," being wrote on a rasure in the 17th line of the first page, the words *fifty-two degrees west*," on the third line of the second page, the word *fourth*," in the fourth line from the bottom of the third page, and the words "*and Martha Bradstreet*," interlined in the ninth line from the bottom of the 4 page, "*undivided*," wrote on a rasure in the fifth line of the 5th page, "*then north sixty degrees west one hundred and thirty-four chains, thence south thirty degrees west fifteen chains and fifteen links*," interlined in the fourth line of the 7th page, "*fourth*" in the 13th line of the same page, wrote on a rasure, "*fourth*" in the 8th line from the bottom of the same page, wrote on a rasure, the word "*release*" in the fourth line from the bottom of the 3rd page, and the same word in the thirteenth line of the 7th page, being done before execution; and the words "*seventy-seven*," in the thirteenth line of the 3rd page, and the words "*seventy-seven*," in the twelfth line of the fifth page, being interlined after the words "*lots number*," in the said twelfth line, and the words "*twenty-one*," in the said thirteenth line, before the execution, the word "*east*," being wrote on a rasure in the 22nd line of the 6th page.)

RICH. HARISON, GABRIEL V. LUDLOW.

NEW YORK, *ss*.

Be it remembered, that on this third day of June, A. D. 1784, personally appeared before me, James M. Hughes, Esq., Master in Chancery, Gabriel V. Ludlow, one of the subscribing witnesses to the within deed, who being by me duly sworn upon the holy evangelist, *and* depose and declare that he was present and saw Philip Schuyler, the party executing the within instrument, sign*d*, seal, execute, and deliver the same as his proper act and deed for the uses and purposes therein mentioned, and that the name Ph. Schuyler, Exr., thereto set, is the proper hand writing of the said Philip Schuyler, and also that the names Richard Harison and Gabriel V. Ludlow, to the same subscribed as witnesses, are of the proper hand writing

of the said Richard Harison and this deponent; and I, having perused the same, and finding no material rasures or interlineations therein, except those noted, allow the same to be recorded.

JAMES M. HUGHES.

CLERK'S OFFICE OF THE COUNTY OF HERKIMER, *ss.*

I certify the foregoing to be a true copy from the record re-
[L. S.] maining in this office. Given under my hand and the seal of said county, this 8th day of June, 1796.

ROBERT PLATT, *D'y. Clk.*

Schedule (I.)

"In the name of God, amen. I, Elizabeth Livius, wife of Peter Livius, Esq., of Lincoln's Inn Fields, being in a very weak state of health, though of a sound disposing mind and memory, do hereby make my last will and testament in manner following. I hereby constitute and appoint my dear niece, Martha Bradstreet, daughter of my late brother Samuel Bradstreet, Major of the 40th regiment of foot, to be my sole heir, to whatsoever estate, real or personal, I may die possessed of, to be paid, or delivered, unto her at the age of twenty-one years, or day of marriage, whichever may first happen; provided she marries with the consent of my most respected friend, Sir Charles Morgan, Bart., whom I hereby appoint executor of this my last will and testament. But in case she should die before she attain twenty-one years of age, or before she be married as aforesaid, I then appoint her brother, Samuel Bradstreet, a Lieutenant in the 25th regiment of foot, to be my heir in her place and stead. In witness whereof, I have hereunto set my hand and seal, this twentyeth day of November, 1794.

ELIZ. LIVIUS. [L. S.]

In the presence of JANE DUMENEY, SUSANNA LIVIUS, CHARLOTTE LIVIUS."

Schedule. (J.)

"In the name of God, amen. I, Agatha Evans, of the city of New York, widow, being of sound mind and memory, do make and publish my last will and testament in manner and form following, viz: First, it is my will and desire that all my just debts and funeral expences be paid and discharged by my executors herein afternamed, as soon as convenience will permit; I leave the care and management of my funeral to my executors, but I desire the expences thereof may not exceed the sum expended on the funeral of my late husband, and I also desire they will pay to Mr. Thomas Roach, Mr. Henry Cruger, and Mr. Carter, the resi-

due of such sums of money as were owing to them respectively by my late husband at the time of his decease; and it is also my will that in case Mr. William Green will accept of the sum of one hundred dollars, formerly paid by him to my said husband, on account of a contract for certain lands in Cosby's Manner, together with the interest thereon, and the costs of certain conveyances, and release all claims which he may have against the estate of my said husband, that then my executors pay him the said one hundred dollars, interests and costs. But it is to be understood that I do not give these directions relative to Mr. Green, under an idea that he hath any legal claim upon me for the said money, interest or costs, or otherwise under the said contract.

I bequeath unto Sarah Hopper, who now lives with me, the sum of fifty pounds, New York money, for mourning, to be paid to her immediately after my death. I bequeath unto such of my executors herein after named, as shall take upon them the execution of this my will, the sum of one hundred pounds of like money a piece for their kind acceptance of this trust. I give and bequeath unto Frances Symington, the wife of Mr. James Symington, of the city of New York, all my wearing apparel, household, linen and furniture, plate, jewels and books, and all such of my private letters and papers as are not necessary for my executors to have, and also all the ready money that may be in the house at the time of my decease.

I bequeath unto Mary Farrington the sum of thirty pounds of like money, to be paid to her immediately after my decease. I bequeath unto each of my servants, who shall live with me at the time of my decease, and who shall have been in my service for twelve months previous thereto, one year's wages over and above what shall be respectively due to them, and all the rest, residue and remainder of my estate, both real and personal, whatsoever or wheresoever. I give, devise and bequeath unto Richard Harrison, of the city of New York, Esquire, Edward Goold, of the same place, merchant, and Charles Wilkes, of the same place, gentleman, and to the survivors and survivor of them, and to their heirs, executors, administrators, and *and* assigns of such survivors forever, to, for, and upon the several uses, trusts, interests and purposes herein after mentioned, expressed and declared of and concerning the same, that is to say, that they the said Richard Harrison, Edward Goold, and Charles Wilkes, the survivors and survivor of them, and the heirs, executors, and administrators of such survivor upon trust, *they* shall and do with all convenient speed after my death, convert into money all such parts thereof as shall be of a saleable nature, by disposing of the same for the best prices that may be reasonably gotten for the same; but the consent of the said James and Francis Simington, during their joint lives, and the consent of the survivor of them in case of the death of either, shall be necessary to every and such sale, and disposal of my said real estate, and that they shall and

do place out and invest, in the name or names of my said Trustees, all sums of money to arise from the sales aforesaid, in and upon the publick stocks or funds, either of England or of the United States, or of any bank within the said United States, or in real securities within the same, and that they may change and vary all such stocks, funds, and securities for other stocks, funds or securities of a similar or of a different nature, whenever, and as often as it shall be thought fit and expedient; and I will and direct that the said Trustees, and the survivors and survivor of them, and the executors, administrators, and assigns of such survivor, shall stand possessed of, and interested in all the stocks, funds, and securities aforesaid, upon the trusts and for the interests and purposes, and subject to the powers and provisoes hereinafter mentioned and declared, concerning the same, that is to say, as to and concerning the sum of two thousand pounds of the said trust monies, and of the said stocks, funds and securities for the same upon trust, to pay yearly in quarterly payments the legal interest thereof unto the said Sarah Hopper, so long as she shall continue unmarried, and no longer, and immediately upon the day of marriage of the said Sarah, to pay, assign, and transfer the one half part of the aforesaid sum of two thousand pounds unto the said Sarah, and the remaining half part of the said two thousand pounds unto and between Samuel Bradstreet and Martha Bradstreet, the children of my brother Samuel Bradstreet, or to such one of them as shall then be living, and shall have attained the age of twenty-one years. But if the said Samuel and Martha Bradstreet, or the survivor of them, shall not then have attained that age, in trust to pay assign, and transfer the same to them, or the survivor of them, when they, or such survivor shall attain that age. But if neither of them shall be living, or if both of them shall die before he or she attain the age of twenty years without lawful issue, then the said one half part shall enure to the use and benefit of the aforesaid Francis Symington, and James Symington in the same manner, and subject to the same contingencies, restrictions, limitations and powers, as the herein after mentioned residue of my real and personal estate; and in case the aforesaid Sarah Hopper shall die unmarried, then upon trust to pay, assign and transfer the said sum of two thousand pounds, and the stock, funds and securities for the same, unto, and between the said Samuel and Martha Bradstreet, or the survivor of them, when they shall respectively attain the age of twenty-one years.

But if both of them shall die before they attain the age of twenty-one years without leaving lawful issue, then the said sum of two thousand pounds shall enure to the use of the said Francis Symington and James Symington, in the same manner, and subject to the same contingencies, restrictions, limitations and powers, as the aftermentioned residue of my said real and personal estate, and as to and concerning the further sum of one thousand pounds of the said trust money, stocks, funds and securities, upon trust to pay yearly

the legal interest thereof, to Captain Christopher Aldridge, of Halifax, in Nova Scotia, during his natural life, and from and immediately after his death, the said sum of one thousand pounds shall enure to the use and benefit of the said Francis Symington and James Symington, in the same manner, and subject to the same contingencies, restrictions, limitations and powers, as the aftermentioned residue of my real and personal estate, and as to and concerning the further sum of five hundred pounds of the said trust monies, stocks, funds and securities for the same, upon trust, to pay yearly, in quarterly payments, the legal interest thereof, unto Maria Gosper, the wife of Anthony Gosper, during her natural life, for her sole and separate use, and not to be subject or liable to the debts or control of her present or future husband, but her receipts for the same shall be legal and sufficient discharges to my said Trustees, notwithstanding her coverture, and from and immediately after her decease, then upon trust, to pay, assign, and transfer the said sum of five hundred pounds, the stocks and funds, and securities for the same, unto and among all such children of the said Maria Gosper as shall be living at the time of her decease, and shall live to attain the age of twenty-one years, and in default of such issue, or if they shall all die before they attain that age, then the said sum of five hundred pounds shall enure to the use and benefit of the said Francis Symington and James Symington, in the same manner, and subject to the same contingencies, restrictions, limitations and powers, as the aftermentioned residue of my real and personal estate.

And as to and concerning all the rest, residue and remainder of the said trust, monies, stocks, funds and securities, and all other, my real and personal estate, upon trust, to pay yearly, in quarterly payments, during the joint lives of the said James and Francis Symington, the interest, dividends, and profits of the said trust monies, stocks, funds and securities, and also the rents, issues, and profits, of my said real estate, while the same shall continue undisposed of, unto the said Frances Symington, for her sole and separate use, and not to be subject, or liable to the debts, control or engagements of her husband, but her receipts for the same shall be good and sufficient discharges to my said Trustees, their executors or administrators, notwithstanding her coverture; and from and immediately after the death of the said Frances Symington, in case she shall die before her said husband, then upon trust to pay yearly and every year, in quarterly payments, the interest, dividends and profits of the said trust money, stocks, funds, and securities, and also the rents, issues, and profits, of my said real estate, while the same continue undisposed of, unto the said James Symington, for and during his natural life, and immediately after the decease of the said James Symington, upon trust to pay, assign and transfer the said trust monies, stocks, funds, and securities, and to convey and release such parts of my said real estate, as shall upon the

death of the said James Symington remain unsold, unto, and among such person and persons, and at such ages and times, and in such parts or proportions, and under such restrictions, and limitations, and in such manner and form, as the said Frances shall at any time or times during her life, whether she shall be covert or sole, and notwithstanding her coverture by any deed or writing under her hand and seal, or by her last will and testament, or any codicil thereto, to be respectively executed in the presence of two or more competent witnesses, direct, limit, or appoint, and in default of such direction, limitation, or appointment, or in case of any such, when, and as the interest thereby limited, shall end and determine, upon trust, to pay, assign, and transfer the said trust monies, stocks, funds, and securities, and such parts of my real estate as shall then remain unsold, or so much of the said trust monies, stocks, funds, and securities, and of the said real estate, or the estate and interest therein, whereunto any such direction, limitation, or appointment, shall not extend unto such child or children of the said Frances, as shall be living at the death of the said James Symington.

But in case the said James Symington shall die before the said Frances, upon trust, to pay, assign, and transfer unto the said Frances, all the rest, residue, and remainder of the said trust monies stocks, funds, and securities, for the same, to and for her sole use and benefit, and convey, and release unto the said Frances and her heirs, all such parts of my said real and personal estate, as shall upon the death of the said James Symington remain unsold; and I order and direct that my said trustees, yearly, and every year, so long as the several trusts herein before mentioned and declared, or any of them may exist, shall deliver to the said Frances Symington, during the joint lives of herself and her husband, and to the said James Symington, after the death of the said Frances, a just and full account of my real and personal estate, and of the said trust monies, stocks, and securities relating to the same, and of the interests, dividends and profits thereof—and also of such parts of my said real estate, as shall from time to time be disposed of, and how the monies arising from the sales thereof may have been applied.

And whereas my late husband and myself have joined with certain other persons, claiming under General Bradstreet, in certain conveyances of lands to persons who purchased of us, and the other claimants, which conveyances it is supposed did not vest the fee of the said lands in those purchasers; now, therefore, I authorize and empower my executors hereinafter named, to execute to those purchasers respectively, good and sufficient deeds, conveying to, and vesting in them the fee simple of all my part of the said land sold to them as aforesaid, which deeds and conveyances I hereby declare shall be good and effectual in law.

And whereas I am entitled to a grant of a certain tract of land, respecting which a suit is now depending, I give and devise unto

my said trustees, and the survivors and survivor of them, in fee, all my estate, right and title, of, in and to the said land, and I declared my will to be that, whenever they shall have obtained a grant for the same, the said land shall be considered as a part of my real estate, and shall be held, conveyed or disposed of in the same manner, and be subject to the same trusts, contingencies, restrictions, limitations and powers as the other parts of my real estate herein before mentioned. I particularly request that Mr. Goold, one of my said executors, will present my most grateful acknowledgments to Sir Charles Morgan for the many marks of friendship he hath shown me, and also for his very great attention to my affairs since my father's death. I revoke all former wills by me heretofore made, and hereby appoint the said Richard Harrison, Edward Goold, and Charles Wilkes, to be executors of this my last will and testament. In witness whereof, I have to this, my last will and testament, contained in four sheets of paper, set my hand and seal, the twenty-ninth day of November, in the year of our Lord one thousand seven hundred and ninety-four.

AGATHA EVANS, [L. S.]

Signed, sealed, published, and declared by the above named Testatrix, as, and for her last will and testament, in the presence of us, who in her presence, at her request, and in the presence of each other, have subscribed our names, as witnesses thereto.

P. JAY MUNRO,
JOHN TOWT,
DANIEL D. TOMPKINS.

Schedule (K.)

"Know all men by these presents, that whereas Martha Bradstreet, formerly of Boston in North America, and at the time of the making of her last will and testament hereinafter mentioned, residing in the parish of Marybone, Westminster, late deceased, in and by her last will and testament, bearing date the fifteenth day of May, in the year of our Lord one thousand seven hundred and eighty-one, did (amongst divers other devises and bequests therein contained,) give and devise to her dear mother, Mrs. Mary Bradstreet, the produce and interest of her estate, real and personal, during the life of her said mother, and the sum of one thousand pounds principal, and her apparel, household furniture, any cash she might have by her at her decease, to dispose of as her said mother might think proper, subject however to the payment of her debts, funeral charges, and *and* the sum of one hundred pounds which she bequeathed to her aunt, Mrs. Martha Aldridge, widow, to be paid in one month after her decease; and as to her real estate and residue of her personal estate, and the rents, issues and profits of both, after the death of her said mother, she did give, devise and bequeath the same, and *and* whatsoever she might in any wise be entitled unto

as follows: One equal third part thereof to her sister Elizabeth Livius, her heirs and assigns forever, to be at her own disposal, independent of her husband by will or otherwise. One other equal third part to Samuel Bradstreet and Martha Bradstreet, children of her late brother, Samuel Bradstreet, deceased, and to their heirs and assigns forever, equally to be divided between them with benefit of survivorship, in case of the death of either of them before the age of twenty-one years; but in case of the death of both in their minority, the said one-third to be equally divided between her sister, Agatha Du Bellamy and Elizabeth Livius, and vest in them respectively in like manner, as the one-third part devised to each of them; but it was her will that the produce of the said one-third part of her estate, and if necessary, part of the principal, should be applied to the maintenance and education of the said Samuel and Martha during their infancy. And of her said last will and testament made and appointed Sir Charles Gould, Knight, the sole executor, who hath taken upon himself the execution thereof.

And whereas the said Samuel Bradstreet hath attained the age of twenty-one years; now, therefore, know ye, that I the said Samuel Bradstreet, for and in consideration of fifty cents current money of the United States of America, to me in hand well and truly paid by said sister, Martha Codd, formerly Martha Bradstreet, at or before the sealing and delivery of these presents, have and by these presents do remise, release, and forever quit claim unto the said Martha Codd, and to her heirs and assigns forever, all right, title, interest, property, claim and demand of what nature or kind soever, which I have or may have or may be entitled to by survivorship in case of the death of my said sister Martha, before she attain the age of twenty-one years, by, from or under any bequest, devise or clause in the said will of the said Martha Bradstreet, herein before in part recited. And I do hereby authorize the said Charles Gould, the executor named in the said will (and who is now called Sir Charles Morgan, Baronet,) forthwith to pay and release all such right, title, interest, property, claim and demand unto the said Martha Codd.

In witness whereof, the said Samuel Bradstreet has hereunto set his hand and seal this first day of November, in the year of our Lord one thousand seven hundred and ninety-nine.

SAMUEL BRADSTREET. [L. S.]"

Sealed and delivered in the presence of

The word *time* in 2d line on first page, *words residue of her* in 16th line on first page, and word *will* in 11th line on last page, interlined, and word estate on sd. 16th line within, on an erasure.

HENRY POST,
WILLIAM FERRIS."

Schedule (L.)

"Whereas Elizabeth Livius, late of the Island of Great Britain, deceased, being seised and possessed of and entitled to a considerable real and personal estate in North America and elsewhere, on the twentieth day of November, one thousand seven hundred and ninety-four, made her last will and testament, in the words and figures following, to wit: 'In the name of God, Amen. I, Elizabeth Livius, wife of Peter Livius, Esq., of Lincoln Inn Fields, being in a very weak state of health, though of a sound disposing mind and memory, do hereby make my last will and testament, in manner following: I hereby constitute and appoint my dear niece Martha Bradstreet, daughter of my late brother Samuel Bradstreet, Major of the 40th regt. of foot, to be my sole heir, to whatever estate, real or personal, I may die possessed of, to be paid or delivered unto her at the age of twenty-one years, or day of marriage, whichever may first happen, provided she marries with the consent of my most respected friend, Sir Charles Morgan, Bart., whom I hereby appoint executor of this my last will and testament. But in case she should die before she attain twenty-one years of age, or before she be married as aforesaid, I then appoint her brother, Samuel Bradstreet, a Lieutenant in the 25th regiment of foot, to be my heir in her place and stead.

In witness whereof, I have hereunto set my hand and seal this twentieth day of November, 1794. And the said Elizabeth, soon after making the said will, died, without revoking or altering the same. And whereas Martha Bradstreet, in the said will named, has, since the death of said Elizabeth, intermarried with Matthew Codd, the said Martha at the time of the said intermarriage being under the age of twenty-one years. And whereas, I, Samuel Bradstreet, brother of the said Martha, and also named in the said will, have made a claim to the property devised and bequeathed by the said will, in consequence of a supposition that the said Martha had not duly obtained the consent of the executor, in the said will named, to the said marriage, and to try the respective claims of the said Martha and myself to the said property; she, together with her said husband, hath commenced a suit in the Court of Chancery of the State of New-York, against me and Edward Goold, of the city of New-York, who, as trustee or agent of the said Elizabeth, was possessed of a considerable portion of the said property. And whereas the said Matthew and Martha have obtained a judgment against me in the Mayor's Court of the city of New-York, for four hundred and forty-seven dollars 46-100 or thereabouts, besides costs:

Now, therefore, I the said Samuel Bradstreet, for the purpose of putting an end to the said controversy, and in consideration that the said Matthew and Martha have released the said judgment and all right to the money therein mentioned, do hereby grant, bargain, sell, transfer, assign, alien, release, convey, and confirm unto the said Mar-

tha and to her heirs, executors, administrators and assigns, all my right, title and interest in the property devised and bequeathed by the said will, together with all and singular the hereditaments, privileges and appurtenances to the same belonging. To have and to hold all my aforesaid right, title and interest, unto the said Martha, her heirs, executors, administrators and assigns, to the only proper use and behoof of the said Martha, her heirs, executors, administrators and assigns forever.

And I, the said Samuel, do hereby covenant with the said Matthew, that I have not done, suffered or committed, either by judgment, contract or other incumbrance, any act, matter or thing whereby my right, title or interest in the said property can in any wise be affected, and that I will, upon the reasonable request and at the proper cost and charges of the said Matthew, do and execute, or cause to be done or executed, all such further acts and deeds as may be necessary to vest all the right, title and interest in the said property, which I now have or ever had, in the said Martha, her heirs, executors, administrators and assigns, and as by council learned in the law, may be reasonably devised or advised. In testimony whereof, I have hereunto set my hand and seal this twenty-sixth day of July, one thousand eight hundred and two.

SAMUEL BRADSTREET."

Sealed and delivered in the presence of
(N. B. The words (*Martha and*) first cancelled.)
NICHS. EVERTSEN."

Schedule (M.)

"I, Thomas Bonnet, of London, Notary Public, by Royal Authority, duly admitted and sworn, do hereby certify and attest to all whom it may concern, that Sir Charles Morgan, Baronet, residing in this city of London, in Grafton-street, Bond-street and at Tredegar in Monmouthshire, did in my presence and in the presence of George Leonard Jenyns, Esquire, of Bottisham Hall near Cambridge, and James Golbourne, of Ely, in the Isle of Ely, Esquire, sign, seal, and as his act and deed, deliver in due form of law, the paper writing hereunto annexed, marked with the letter (A.), purporting his full consent to the marriage of Miss Martha Bradstreet with Mr. Matthew Codd, her present husband, and that the signature "Chas. Morgan," and seal thereto affixed, are the proper hand writing and sealing of the said Sir Charles Morgan, Baronet; and further, that the signatures 'George Leonard, Jenyns, Bottisham Hall, near Cambridge;' 'James Golbourn, of Ely, in Jenyns, and James Golbourn, Esquires. And that faith and credit may and ought to be given thereto, in judgment and thereout, whereof an act being required, I have granted this under my notarial seal to serve and avail where needful.

London, this fourth day of June, one thousand eight hundred.

In testimonium veritatis.

THO'S. BONNET, *Nots. Pubs.* [L. S.]

We, the undersigned, public notaries, do hereby certify that Mr. Thomas Bonnet, who has signed the foregoing act, is a sworn Notary Public, practising in this city, and that to all acts and attestations by him so signed, faith and credit may and ought to be given in judgment and thereout.

London, this 4th day of June, 1800.

Witness our hands. DAV. GUILLONNEAU, *Nots. Pub.*
JOH'S. MITCHELL, *Nots. Pub.*

(A.)

Understanding that doubts have been entertained, whether my consent has been given to the marriage of Miss Martha Bradstreet with Mr. Matthew Codd, her present husband, upon which circumstance the effect or operation of a bequest made to her by the last will or testament of her aunt, the late Mrs. Elizabeth Livius, may depend, I think it incumbent upon me to certify how that business stands. The marriage was agreed upon and took place before I was apprised of the mutual attachment of the parties, the said Miss Martha Bradstreet, (now Mrs. Codd) being in Ireland, myself in Great Britain. Had my consent been asked before the nuptials had taken place, I should most probably have recommended it to her to pause, and give a little time for deliberation, as well as for affording me an opportunity for informing myself of Mr. Codd's character, connections and situation in life, before I had expressed either assent or dissent. Almost immediately after the marriage had been solemnized, I believe by the very first mail, she made me acquainted therewith; and I presently after learnt that Mr. Codd was a young gentleman of good reputation, but of slender fortune, and from his general demeanour likely to make a good husband. I did not then for a moment hesitate, as far as it depended upon me, to ratify the bequest made by Mrs. Livius's said last will and testament, by giving my free consent, thinking that I was fully warranted so to do, according to the trust reposed in me, and I have ever since considered the property of Mrs. Livius to be, in virtue of her said last will and testament, absolutely vested in Mrs. Codd. I have only to add, that had I been applied to before the marriage, and had I known what I have since been informed respecting Mr. Codd, tho' I should then, as I do now, have wished for both their sakes that he had been possessed of a better property, I should not have refused my consent, if I had perceived her affections to be fixed upon Mr. Codd. The will however does not express that the consent must be *previous* to the marriage. At that time I had not the means, nor was I called upon to form any judgment upon the matter, the same not having been proposed to me; I never at any point of time declared my *dissent:* such are the circumstances of the case. The construction deducible therefrom is submitted to the

court in which the question is pending. In witness of the truth of which, I have hereunto set my hand, seal, the 4th day of June 1800.
CHA'S. MORGAN. [L. S.]

Witnesses, George Leonard, Jenyns, Bottisham Hall, near Cambridge, James Golbourn of Ely, in the Isle of Ely."

Schedule (N.)

"The people of the State of New York, by the grace of God, free and independent; to all to whom the presents shall come, Greeting:

[L. S.] Know ye, that we having inspected the records of our court of Chancery of said State, do find a certain decretal order therein remaining, which is in the words and figures following, to wit:

At a court of Chancery, held at the City hall of the city of New York, on the seventeenth day of May, 1803, present, the honorable John Lansing, Junr. Esq. Chancellor.

MATTHEW CODD, & MARTHA, his wife,
vs.
EDWARD GOOLD & SAMUEL BRADSTREET.

Counsel having been heard in this cause on the part of the complainants and defendants, and time being taken to advise his honor, the Chancellor doth order, adjudge and decree, and it is hereby ordered, adjudged, and decreed, that the said Edward Goold do transfer to the said Matthew all the personal estate in the hands or possession of the said Edward, as trustee of Elizabeth Livius, deceased, in the pleadings in this cause mentioned, and do transfer and convey unto the complainant, Martha Codd, all the real estate vested in him as trustee as aforesaid, but that nothing herein contained shall make the said Edward Goold personally responsible for any of the said trust property, which may have been converted into money, and for which he would have been liable if he had not become a bankrupt and obtained a certificate of discharge; and that each party pay his own costs. And it is further ordered and decreed that it be referred to one of the masters of this court, to take an account of the real and personal property in the possession of the defendant Edward Goold, as a trustee as aforesaid, and not converted into money before his bankruptcy—and to direct a proper transfer and conveyance to the complainants as aforesaid.

All of which we have by these presents exemplified, and the seal of our said court of Chancery hereunto affixed.

Witness, Samuel Jones, Chancellor of our said State at the city of New York, this seventh day of May, in the year of our Lord one thousand eight hundred and twenty-seven, and of the Independence of the United States of America the fifty-first.

A copy, JOHN L. LAWRENCE,
Assistant Register.

I, Samuel Jones, Chancellor of the State of New York, do hereby certify that the seal affixed to the preceding exemplification, is a true impression of the seal of the court of Chancery of said State; that John L. Lawrence whose name is subscribed to the attestation of the said exemplification is the Assistant Register of said court; and that the said attestation is in due form.

Dated Albany, 14th January, 1828. S. JONES.

Schedule (O.)

The people of the State of New York, by the grace of God, free and independent; to all to whom these presents shall come, greeting:

Know ye, that we having inspected the files of our court of [L. S.] Chancery, of our said State, do find a certain bill there remaining, which is in the words following, to wit:

In Chancery.

To the Honorable John Lansing, Esquire, Chancellor of the State of New York.

Humbly complaining, shew unto your honor, your orator Matthew Codd, late of Ireland, but now of the County of West Chester, and State of New York, gentleman, and Martha his wife, late Martha Bradstreet, late of England, in the Island of Great Britain, that Elizabeth Livius, late of London, in Great Britain aforesaid, widow, deceased, the sister of your orator's father, Samuel Bradstreet, deceased, being seised and possessed of, and entitled to a large, real and personal estate in the Island of Great Britain, aforesaid, and in this State and elsewhere in North America, on the twentieth day of November, one thousand seven hundred and ninety-four, made her last will and testament in writing, in the words and figures following, to wit: "In the name of God, Amen. I, Elizabeth Livius, wife of Peter Livius, Esquire, of Lincoln's Inn Fields, being in a very weak state of health, tho' of a sound disposing mind and memory, do hereby make my last will and testament in manner following. I hereby constitute and appoint my dear niece Martha Bradstreet, daughter of my late brother Samuel Bradstreet,

Major of the 40th regiment of foot, to be my sole heir to whatever estate, real or personal, I may die possessed of, to be paid, or delivered unto her at the age of 21 years, or day of marriage, which ever may first happen, provided she marries with the consent of my most respected friend, Sir Charles Morgan, Bart., whom I hereby appoint executor of this my last will and testament; but in case she should die before she attains twenty-one years of age, or before she be married as aforesaid, I hereby appoint her brother Samuel Bradstreet, a Lieutenant in the 25th regiment of foot, to be my heir in her place and stead.

In witness whereof, I have hereunto set my hand and seal, this twentieth day of November, 1794.

ELIZA LIVIUS.

In the presence of
JANE DUMENEY,
SUSANNAH LIVIUS,
CHARLOTTE LIVIUS."

As by the said will, ready to be produced as this honorable court shall direct, will fully and at large appear.

And your orator and oratrix further shew unto your honor, that your oratrix is the same person named Martha Bradstreet in the said will. And your orator and oratrix further shew unto your honor, that the said Elizabeth Livius, soon after making her said last will and testament, died without revoking or altering the same, seised and possessed of and entitled to the said real and personal estate as aforesaid.

And your orator and oratrix further shew unto your honor, that your orator and oratrix intermarried in Ireland, aforesaid, on or about the sixteenth day of April, one thousand seven hundred and ninety-nine.

And your orator and oratrix further shew unto your honor, that at the time of the said marriage, your orator and oratrix resided in Ireland, aforesaid, and the said Sir Charles Morgan, in London aforesaid, which remoteness, together with the serious political disturbances then existing in the former place, which compelled your orator and oratrix to quit the country in great haste, prevented them from obtaining the consent of the said executor to the said marriage prior thereto. But your orator and oratrix expressly allege, and further shew unto your honor, that the said executor, very soon after the celebration of the said marriage, upon being informed thereof, expressed his hearty and decided approbation of it, declaring that had he been consulted on the subject, previous to the confirmation of said marriage, he would have given his consent to it; and further, that he considered the title of your oratrix to the estate of the said Elizabeth Livius, as established by the said marriage, as your orator and oratrix are fully able to prove.

And your orator and oratrix further shew unto your honor, that very soon after the said marriage took place, your orator and oratrix

came into the State of New York, where they have resided ever since.

And your orator and oratrix further shew unto your honor, that your oratrix attained the age of twenty-one years, on the tenth day of August, one thousand eight hundred and one. And your orator further sheweth unto your honor, that the said Sir Charles Morgan, ever since the said marriage, has resided, and still resides in the Island of Great Britain, aforesaid, and hath ever been and still is desirous that your oratrix should be invested with the possession of all the property of the said Elizabeth Livius.

And your orator and oratrix further shew unto your honor, that a large amount of personal estate, of the property of the said Elizbeth Livius, at the time of her death, hath come to the hands and possession of Edward Goold of the City of New York, merchant, as agent or trustee for the said Elizabeth or her representatives.

And your orator and oratrix further shew unto your honor, that a considerable portion of real estate of the said Elizabeth, at the time of her death, hath likewise become vested in the said Edward as trustee, or otherwise subjected to his direction and management.

And your orator and oratrix further shew unto your honor, that your orator and oratrix hath frequently in a friendly manner applied to the said Edward Goold, and requested him to account with your orator and oratrix for the property of the said Elizabeth Livius, so as aforesaid in his possession, or under his direction or control, or to pay or transfer the same to your orator or oratrix, which the said Edward refused to do, unless the said Samuel Bradstreet, the brother of your oratrix, will consent to it, or this honorable court should so order and decree.

And your orator and oratrix further shew unto your honor, that your orator and oratrix have frequently in a friendly manner applied to the said Samuel Bradstreet for his consent, that the said Edward should account with your orator and oratrix for the said property in his possession, as aforesaid, which the said Samuel hath refused to do, but to the contrary, hath forbidden the said Edward to account with your orator and oratrix for the said property, alleging that the same belongs to him, and that should the said Edward transfer the same to your orator and oratrix, he, the said Samuel, would still hold him accountable therefor, altho' the said Samuel hath once since the said marriage informed the said Edward, that your oratrix was entitled to the property of the said Elizabeth under her will, and that the said Edward should account with her therefor. And your orator and oratrix well hoped, that the said Edward and Samuel would upon mature consideration have been convinced of the right of your orator and oratrix to the said property, and accordingly would have consented to transfer, and actually transferred the property aforesaid, in the hands of the said Edward, unto your orator and oratrix, as in justice ought to be done. But now so it is, may it please your honor, that the said Edward and Samuel, combining and confederating together, and with divers

other persons unknown to your orator and oratrix, whose names, when discovered, your orator and oratrix pray may be inserted in this their bill of complaint, with apt and proper words, to charge them as parties thereto, absolutely refuse to consent, that your orator and oratrix shall have the possession or enjoyment of the said property, or to admit the right of your orator or oratrix thereto, but on the contrary pretend, that your oratrix hath forfeited her right to the property of the said Elizabeth Livius, by her marriage aforesaid, all which actings and doings of the said Edward and Samuel, and their confederates, are contrary to equity and good *con*conscience. In tender consideration whereof, and for as much as matters of this nature are particularly cognizable in this honorable, and not in a court of common law; to the end, therefor, that the said Edward and Samuel and their confederates, when discovered, may true and perfect answers make to all and singular the premises, as minutely and particularly as if the same were here again repeated, and they thereunto expressly interrogated. And more especially, whether the said Elizabeth was not the sister of your oratrix's father? And whether the said Elizabeth did not reside in England, and die there as above set forth, or where else in particular? And whether the said Elizabeth did not die seised and possessed of, or entitled to a large, real and personal estate or otherwise, and what in particular and where in particular, and in whose hands, care or management in particular? And whether the said Elizabeth did not, on or about the day for that purpose above set forth, or when in particular, make her last will and testament as above set forth? And whether a true copy of the said will is not above set forth? Or what else are the contents of the said will in particular? And whether said Elizabeth, soon after making her said will, did not die without revoking or altering the same? Or how in particular? And whether your oratrix is not the same person named "Martha Bradstreet" in the said will, or who and where is the person so named "Martha Bradstreet?" And whether your orator and oratrix did not intermarry at or about the time for that purpose above set forth? And whether the situation of your orator and oratrix, and the residence of the said Charles Morgan at the time of the said marriage, were not such as above set forth, or how else in particular? And whether the said Charles Morgan did not approve of the said marriage, as above set forth? Or what did he say on that subject in particular? And whether the said Charles did not allege, that had he been consulted on that subject, prior to the marriage, he would have consented, or what did he say upon that point? And whether the said Charles did not consider the marriage as a performance of the condition in the said will mentioned? And whether your orator and oratrix, soon after the said marriage, did not embark for this State as above set forth? And whether your oratrix did not at the time for that purpose set forth, or when else in particular, attain the age of twenty-one years? And whether the said Sir Charles Morgan doth not now reside in England, as above set forth, or where

else in particular? And whether the said Sir Charles Morgan hath not uniformly been desirous, that your oratrix should enjoy the estate of the said Elizabeth Livius, as above set forth, or how else in particular? And whether a large amount of personal property or otherwise, and what amount in particular, hath not come to the possession of the said Edward, or in some way under his management and disposal, and how in particular? And whether part of the real estate of the said Elizabeth hath not come to the possession, care or management of the said Edward, and to what extent, and where situate, and how in particular? And whether your orator and oratrix, or one of them, hath not requested the said Edward to account with them for the property, so as aforesaid in his hands? And whether the said Edward hath not refused to transfer the said property to your orator and oratrix? Or what did the said Edward say upon that subject—and whether the said Samuel Bradstreet hath not objected to the said Edward transferring the said property to your oratrix? Or what hath he said to the said Edward on that subject in particular? And whether the said Samuel hath not since the said marriage informed the said Edward, and how, that the said property in his hands belonged to your oratrix, or to that effect, and when in particular? And that the said Edward and Samuel may set forth a particular account of all the property of the said Elizabeth Livius in their hands, possession and knowledge, and may be decreed by your honor, to transfer to your orator and oratrix all such property, together with the documents, deeds and vouchers accompanying the same, and that your orator and oratrix may have such further and other relief in the premises, as to your honor shall seem meet and agreeable to equity and good conscience. May it please your honor to grant unto your orator and oratrix, the people's most gracious writ of Subpœna, issuing out and under the seal of this honorable court, to the said Edward Goold and Samuel Bradstreet, to be directed and delivered, commanding them by a certain day, and under a certain pain therein, to be limited and expressed, to be and appear before your honor, in this honorable court, to stand to, and abide such order and decree in the premises, as to your honor shall seem meet and agreeable to equity and good conscience. And your orator and oratrix will ever pray.

[Endorsed,] EVERTSON, *Sol'r. & Counsel.*

"Filed 24th November, 1801.

KIP, *Cl'k.*"

All which we have caused by these presents to be exemplified, and the seal of our said Court of Chancery to be hereunto affixed.

Witness, Samuel Jones, Chancellor of the said State, at the City of New York, the twenty-first day of November, in the year of our Lord one thousand eight hundred and twenty-seven, and of the Independence of the United States of America the fifty-second.

JOHN L. LAWRENCE,
Assistant Register.

I, Samuel Jones, Chancellor of the State of New York, do hereby certify, that the seal affixed to the preceding exemplification, is a true impression of the seal of the Court of Chancery of said State; that John L. Lawrence, whose name is subscribed to the attestation of the said exemplification, is the Assistant Register of said court; and that the said attestation is in due form.

Dated, Albany 14th January, 1828. S. JONES.

Schedule (P.)

To the people of the State of New-York, by the grace of God, free and independent; to all to whom these presents shall come, greeting.

[L. s.] Know ye, that we having inspected the files of our Court of Chancery of our said State, do find a certain answer there remaining, which is in the words following, to wit:

In Chancery.

The several Answer of Samuel Bradstreet, one of the Defendants to the Bill of Complaint of Matthew Codd and Martha his wife, against Samuel Bradstreet and Edward Goold, Defendants.

This Defendant, now and at all times hereafter saving and reserving to himself all manner of advantage and benefit of exception to the manifold errors, insufficiencies and uncertainties contained in the said Bill of Complaint of the said Matthew Codd and Martha his wife, for answer thereto, or to so much thereof as he is advised it is material and necessary for him to make answer unto, he answers and says, that he admits that the said Martha is the same person who is named Martha Bradstreet in the said will of the said Elizabeth Livius; butt his Defendant denies that the said Complainants have any right to the property mentioned in the said Bill of Complaint by virtue of said will of the said Elizabeth Livius, and on the contrary insists that he, this Defendant, is the person entitled to have and receive the same, the said Martha not having married with the consent of Sir Charles Morgan, agreeably to the proviso contained in the said Will of Elizabeth Livius, and this defendant prays the opinion of this honorable Court whether the said marriage of the said Martha, without the consent of the said Sir Charles Morgan previously obtained, does not entitle this Defendant to have and receive all and singular the estate, both real and personal, of which the said Elizabeth Livius died seised and possessed. And the Defendant denies all manner of unlawful combination and confederacy in the said bill charged, without that, that there is any other matter or thing material or necessary for this Defendant to make answer unto, and not herein or hereby well and sufficiently answered unto, confessed or avoided, traversed or denied, is true. All which matters and things this Defendant is ready to aver and

prove as this honorable Court shall direct and award; and humbly prays to be hence dismissed with his reasonable costs and charges in this behalf most wrongfully sustained.

SAMUEL BRADSTREET.

ROB. TROUP, *Solr. for Deft.*
THEODORUS V. W. GRAHAM,
of Counsel for Deft.

Sworn this 15th day of Decemr., 1801, before me,
JAMES M. HUGHES,
Mr. in Ch'y.

[Endorsed]
" Filed 15th day of December, 1801.
THOS. SMITH, *Clk.*"

All which we have caused by these presents to be exemplified, and the seal of our said Court of Chancery to be hereunto affixed.

Witness Samuel Jones, Chancellor of our said State, at the City of New-York, the twenty-first day of November, in [L. S.] the year of our Lord one thousand eight hundred and twenty-seven, and of the Independence of the United States of America the fifty-second.

JOHN L. LAWRENCE,
Assistant Register.

I, Samuel Jones, Chancellor of the State of New-York, do hereby certify, that the seal affixed to the preceding exemplification is a true impression of the seal of the Court of Chancery of said State; that John L. Lawrence, whose name is subscribed to the attestation of the said exemplification, is the Assistant Register of said Court; and that the said attestation is in due form.

S. JONES.

Dated Albany, 14th January, 1828.

Schedule (Q.)

The People of the State of New-York, by the grace of God, free and independent; to all to whom these presents shall come, greeting.

Know ye, that having inspected the files of our Court of Chan- [L. S.] cery of our said State, do find a certain answer there remaining, which is in the words following, to wit:

In Chancery.

The seperate answer of Edward Goold, one of the Defendants to the Bill of Complaint of Matthew Codd and Martha his wife, against this Defendant and Samuel Bradstreet.

This Defendant, saving to himself now and at all times hereafter, all and all manner of benefit and advantage of exception to the manifold errors, uncertainties, & insufficiencies in the Complainant's bill of complaint, contained for answer thereto, or unto so much

thereof as he is advised that it is in any manner material for this defendant to make answer unto, he answereth and saith, that he believes that Elizabeth Livius in the said bill of complaint named, made such last will and testament as in the said bill is set forth, but for greater certainty therein he refers to the said will, when it shall be produced to this honorable Court. And this defendant further saith that he also believes the complainant, Martha Codd, to be the person named Martha Bradstreet in the said will, and that the said Elizabeth Livius died without revoking or altering the same, seised, possessed and entitled as in the said bill is set forth, and that the Complainants intermarried at or about the time for that purpose in their said bill stated, and that at the time of the said marriage the Complainants resided in Ireland, and Sir Charles Morgan in the said bill named, in London; that such marriage was had without the previous consent of the said Sir Charles Morgan, and with such circumstances of subsequent approbation as in the said bill are contained. And that they & the said Sir Charles Morgan have respectively resided as in the said bill is also stated; and that the Complainant Martha obtained her full age as in the said bill is alleged.

And this Defendant further answering, saith that he hath always been and still is willing to account for all of the estate of the said Elizabeth Livius, in his hands, to any person legally entitled to the same, and he doth hereby offer to account as aforesaid, under the order and direction of this honorable Court, upon oath if required; but this Defendant further saith, that having become possessed of such property under powers from the said Peter Livius and Elizabeth his wife, and Sir Charles Morgan, and there being a question whether under the circumstances that have taken place in respect to the marriage of the Complainants, they or the defendant, Samuel Bradstreet, were entitled to the said property, this defendant hath been advised not to part with the same without the order and decree of this honorable Court in the premises, to which this Defendant is ready and willing to conform in every respect, being only desirous to have such decree of the Court for his indemnification; and this Defendant denies all and all manner of unlawful combination and confederacy wherewith he is charged—without that *that* any other matter or thing material or necessary for this Defendant to make answer unto, and not herein and hereby well and sufficiently answered unto, confessed and avoided, traversed, or denied, is true; all which matters and things this Defendant is ready to aver and prove as this honorable Court shall direct and award; and hereby prays to be hence dismissed with his reasonable costs & charges by him about this suit in this behalf most wrongfully sustained.

EDWARD GOOLD.

R. HARISON, *Solr. for Deft.*
W. WILCOCKS, *of Counsel for Deft.*

Sworn this 9 day of Jan'y, 1802, before me,
JAMES M. HUGHES,
Mastr. in Ch'y.

[Endorsed.] " 11 Jan'y, 1802, filed.
THOS. SMITH, *Clk.*"

All which we have caused by these presents to be exemplified, and the seal of our said Court of Chancery to be hereunto affixed.

Witness Samuel Jones, Chancellor of our said State, at the City of New-York, the twenty-first day of November, in [L. S.] the year of our Lord one thousand eight hundred and twenty-seven, and of the Independence of the United States of America the fifty-second.

JOHN L. LAWRENCE,
Assistant Register.

I, Samuel Jones, Chancellor of the State of New-York, do hereby certify, that the seal affixed to the preceding exemplification is a true impression of the seal of the Court of Chancery of said State; that John L. Lawrence, whose name is subscribed to the attestation of the said exemplification, is the Assistant Register of said Court; and that the said attestation is in due form.

Dated Albany, 14th January, 1828. S. JONES.

Schedule (R.)

The people of the State of New York, by the grace of God, free and independent; to all to whom these presents shall come, Greeting:

[L. S.] Know ye, that we having inspected the files of our court of Chancery of our said State, do find a certain answer there remaining, which is in the words following, to wit:

STATE OF NEW YORK, *In Chancery.*

The further answer of Samuel Bradstreet, one of the defendants to the bill of complaint of Matthew Codd, and Martha, his wife, complainants.

This defendant further answering saith, that he hath been informed, which information he believeth to be true, that the said Elizabeth Livius is dead, but when and where in particular the said Elizabeth Livius died this defendant doth not know. And this defendant further answering saith, that he hath been informed, which information he believeth to be true, that the said Elizabeth Livius died seised of, possessed and entitled to a large real and personal estate as is set forth in the said bill of complaint, but of what particulars the said real and personal estate consisted this defendant doth not know. And this defendant further answering saith, that

he hath been informed, which information he believeth to be true, that the property of the said Elizabeth Livius is now in the hands and under the care and management of the said Sir Charles Morgan, and the defendant Edward Goold, but what particular portions thereof are in their hands respectively, and to what amount, this defendant doth not know. And this defendant further answering saith, that the complainant Martha Codd informed this defendant that the said Elizabeth Livius made such last will and testament as is set forth in the said bill of complaint, but that altho' he, this defendant, hath written to Sir Charles Morgan, for such authenticated copy of such will, he hath not been able to procure such authenticated copy from the said Sir Charles Morgan. This defendant therefore is unable to say whether the said Elizabeth Livius really executed such will as is set forth in the said bill of complaint, yet this defendant admitteth that the said Elizabeth Livius made such will as is set forth in the said bill of complaint, but for greater certainty in this particular referreth the court to such will or the probate thereof, when produced to this honorable court. And this defendant further answering saith, that he admitteth the intermarriage of the said complainants as is set forth in their said bill of complaint. And this defendant also admitteth that at the time when the said intermarriage took place, the complainants resided in some part of Ireland, and that the said Sir Charles Morgan resided in London, but the defendant denieth that the complainant Martha Codd was prevented from obtaining the consent of the said Sir Charles Morgan to the said marriage, by remoteness of situation, political disturbances, or by all or any of the causes which are stated in the said bill of complaint. And this defendant further answering saith, that he hath received a letter from the said Sir Charles Morgan, dated Grafton street, 31st of December, 1799, in which the said Sir Charles Morgan thus writes to this defendant: "Your sister is most probably before this time arrived in New York, and you will have seen her I hope in good health. Her marriage to Mr. Codd had actually taken place in Ireland, and the marriage articles had of course been executed there by which her property was transferred to Sir Simon Bradstreet, in trust, before I received any intimation of an attachment between the parties, so that I had nothing to do with the business whatever: I have never seen Mr. Codd, nor am I acquainted with his connections, but I hear him well spoken of and I sincerely wish the union may prove happy." And also another letter, dated Grafton street, 15th of April, 1800, in which the said Sir Charles Morgan writes thus to this defendant: "I certainly shall not go before my Lord Mayor to make any oath upon the business: but the fact is as I have already stated it to be, that the marriage was contracted and solemnized before I had any intimation of the attachment, and therefore could not at that time either assent, or dissent thereto, but having afterwards heard a good character of the young gentle-

man, of whom your sister has made choice, altho' it was not perhaps a measure which I should have advised, I have ratified the same as far as depends from me by declaring my assent thereto."—And this defendant further answering, saith, that he admitteth that the said Martha Codd, hath attained the age of twenty-one years, as in the said bill of complaint is set forth. And this defendant further answering denieth, that he ever told the said Edward Goold, that the property in his hands of the estate of the said Elizabeth Livius, deceased, belonged to the complainant Martha Codd.

SAMUEL BRADSTREET.
ROBERT TROUP, *Sol'r for Deft.*
THEODS. V. W. GRAHAM,
Of Counsel for Deft.

Sworn before me this 13th Feb'y, 1802.
JAMES M. HUGHES,
Master in Ch'y.

[Endorsed.]
" Filed 15th Feby. 1802. T. SMITH, *Clk.* "

All which we have caused by these presents to be exemplified, and the seal of our said Court of Chancery to be hereunto affixed.

Witness Samuel Jones, Chancellor of our said State, at the City of New York, the twenty-first day of November, in the year of our Lord one thousand eight hundred and twenty-seven, and of the Independence of the United States of America the fifty-second.

JOHN L. LAWRENCE,
Assistant Register.

I, Samuel Jones, Chancellor of the State of New York, do hereby certify, that the seal affixed to the preceding exemplification is a true impression of the seal of the Court of Chancery of said State; that John L. Lawrence whose name is subscribed to the attestation of the said exemplification is the Assistant Register of said court; and that the said attestation is in due form.

S. JONES.

Dated Albany, 14th January, 1828.

Schedule (S.)

" This Indenture, made the twenty-second day of October, in the year of our Lord one thousand eight hundred and four, between Edward Goold of the city of New York, merchant, of the first part, and Martha Codd, late Martha Bradstreet, wife of Matthew Codd, of Utica in the county of Oneida and State of New York, of the

second part. *Whereas* Philip Schuyler, of the county of Albany in the State of New York, Esquire, executor of the last will and testament of John Bradstreet, deceased, by two certain indentures of release bearing date respectively the sixteenth day of May, in the year of our Lord one thousand seven hundred and ninety-four, and made by and between the said Philip Schuyler, executor as aforesaid, of the first part, and Agatha Evans, then of the city of New York in the State aforesaid, widow, one of the daughters of the said John Bradstreet, deceased, and the said Edward Goold of the said city of New York, merchant, attorney to Sir Charles Goold, Knight, the only executor of the last will and testament of Martha Bradstreet, deceased, another daughter of the said John Bradstreet, of the other part, in order as well to invest the said Agatha Evans with a legal title to her proportion of the lands and tenements devised to her by virtue of the will of the said John Bradstreet and Martha Bradstreet hereinafter mentioned, as to convey the rest and residue of the lands and tenements devised thereby, to the said Edward Goold in trust for the several persons who might be entitled to the benefit thereof, under the will of the said Martha Bradstreet, did grant, bergain, sell, alien, release and confirm unto the said Agatha Evans and Edward Goold, and to their heirs and assigns forever, the several lots, pieces or parcels, and undivided parts of land particularly described and mentioned in the said Indentures of release, to be had and holden unto the said Agatha Evans and Edward Goold, their heirs and assigns forever, in manner following, that is to say, two equal, undivided third parts of the said premises, unto the said Agatha Evans, her heirs and assigns, to her and their only proper use and behoof forever, and the remaining equal, undivided third part thereof unto the said Edward Goold, his heirs and assigns forever, upon the following trusts, that is to say, to sell the same from time to time as might be most expedient, and every or any parcel thereof, and after deducting the charges of sale and other contingent expences attending the said trust, to divide the residue of the money to arise from such sales to and among Samuel Bradstreet and Martha Bradstreet, party of the second part to these presents, and Elizabeth Livius, lately deceased, being devisees named in the said will of the said Martha Bradstreet, and their heirs, executors and administrators, according to their several interests in the estate of the said Martha Bradstreet, by virtue of her said will, or to such persons as would be entitled thereto upon the happening of any of the contingencies in the said will mentioned, affecting in any wise their proportion of the same estate.

And whereas the said Martha Codd, party of the second part to these presents, late Martha Bradstreet, by virtue of the last will and testament of the said Elizabeth Livius, deceased, hath since the execution of the said indentures of release by the said Philip Schuyler as aforesaid, become entitled to all the estate, right and

interest of the said Elizabeth Livius in the premises above referred to, and released and conveyed by the said last mentioned indentures of release to the said Edward Goold, in trust as aforesaid, not sold and converted into money according to the said trust.

And whereas the said Edward Goold hath lately become a bankrupt, and was duly, according to the late act of the Congress of the United States, declared a bankrupt, and a certificate of discharge hath in due form of law been obtained by him.

And whereas, by a decretal order of the court of Chancery of the State of New York, made on the seventeenth day of May, one thousand eight hundred and three, in a certain cause depending in the said court between Matthew Codd and the said Martha, his wife, complainants, and the said Edward Goold and Samuel Bradstreet, defendants, it was among other things ordered, adjudged and decreed by the said court that the said Edward Goold should transfer and convey to the said Martha Codd all the real estate vested in him the said Edward Goold as aforesaid, as trustee as aforesaid of the above named Elizabeth Livius, but that nothing in the said decree contained should make the said Edward Goold personally responsible for any of the said trust property which may have been converted into money, and for which he would have been liable if he had not become a bankrupt, and obtained a certificate of discharge.

And whereas, the said Edward Goold is willing also to convey to the said Martha Codd such proportion of the real estate mentioned in the said indentures, as by virtue of them she may be entitled to under the will of the said Martha Bradstreet, and the said Edward Goold being also willing to convey to the said Martha Codd all the real estate vested in him as aforesaid, as trustee for her the said Martha Codd; now therefore this indenture witnesseth, that the said Edward Goold, in consideration of the premises, and in pursuance of the said order and decree of the said court of chancery, and also in consideration of the sum of one dollar to him paid by the said Martha Codd at the time of the execution of these presents, the receipt whereof the said Edward Goold doth hereby acknowledge; hath granted, bargained, sold, released, conveyed and confirmed, and by these presents doth grant, bargain, sell, release, convey and confirm unto the said Martha Codd, and to her heirs and assigns forever, all the real estate held by him, at the time of his becoming a bankrupt as aforesaid, as trustee as aforesaid for the said Elizabeth Livius, by virtue of the several indentures of release executed by the said Philip Schuyler as aforesaid, and the several wills therein referred to, and also all the real estate held by him, the said Edward Goold, at the time of his becoming a bankrupt as aforesaid, as trustee for the said Martha Codd, by virtue of the said several indentures and wills last above referred to; to have and to hold unto her the said Martha Codd, her heirs and assigns, to the only proper use, benefit and behoof of her the said Martha Codd,

her heirs and assigns forever; and the said Edward Goold, for himself, his heirs, executors and administrators, doth hereby covenant to and with the said Martha Codd, her heirs and assigns, that he the said Edward Goold hath not done, suffered or permitted any act, matter or thing whereby the title to the premises hereby released, or to any part or parts thereof, hath been or may be defeated, or in any manner incumbered, injured or impaired, and that he and his heirs will at all reasonable times hereafter, upon the request of the said Martha Codd, her heirs and assigns, and at their expense and costs, do suffer and execute such other and further acts, conveyances and assurances in the law, for the better and more completely vesting the title to the premises hereby released in her the said Martha Codd, her heirs and assigns, as by her or their counsel learned in the law shall be advised, devised or required; provided however that such assurances shall not contain any covenants on the part of the said Edward Goold or his heirs, by which he or they may be made answerable or liable for any act or acts in respect to the premises herein before released, or any part or parts thereof, other than those by him or them done or suffered since his bankruptcy. In witness whereof the said parties to these presents have hereunto interchangeably set their hands and seals the day and year first above written.

EDWARD GOOLD. [L. S.]

THOMAS COOPER.

STATE OF NEW YORK, *ss.*

On the 25th of October, 1804, before me came Edward Goold, known to me to be the grantor described in, and who has executed the within deed, who did acknowledge that he had executed the same; I allow it to be recorded.

THOMAS COOPER, *Master in Chancery.*

STATE OF NEW YORK, }
Secretary's Office. }

Recorded in Lib. Deeds, endorsed $\frac{\text{M R.}}{\text{O.}}$ page 283, &c., the 5th day of November, at 10 o'clock, A. M. 1804.

TH. TILLOTSON, *Sec'ry.*"

Schedule (T.)

[L. S.] "The people of the State of New York, by the grace of God, free and independent; to all to whom these presents shall come, greeting:

Know ye, that we having inspected the records of our Court of Chancery of our said State, do find a certain decretal order there remaining in a certain cause in which Martha Codd is complainant and Matthew Codd is defendant, which said decretal order is in the words following, to wit:

At a Court of Chancery held for the State of New York, at the City Hall of the City of New York, on the sixteenth day of June, in the year of our Lord one thousand eight hundred and seventeen—Prest. the Honorable James Kent, Esqr. Chancellor; between Martha Codd complainant, and Matthew Codd defendant.

Whereas, heretofore, to wit: that is to say, on the thirty-first day of May, in the year of our Lord one thousand eight hundred and sixteen, Martha Codd, complainant, did exhibit her bill of complaint into this high and honorable court of chancery against Matthew Codd, defendant, thereby amongst other things setting forth that she was one of the devisees of Martha Bradstreet and of Elizabeth Livius, and as such, entitled to a large real estate in this State and elsewhere; that in the year one thousand seven hundred and ninety-nine, at Wexford, in the kingdom of Ireland, she intermarried with the said Matthew Codd, of the same kingdom, the said Matthew being totally destitute of property. That in the same year they came to this State with a view permanently to reside therein, and that since their said arrival they have been and still are inhabitants of this State and residents within the same. That she hath five children, issue of the said marriage, to wit: Elizabeth-Catharine, Sarah-Mary-Anne, Elanor-Cloney, John-Bradstreet and Edward-Livius, all living and under the age of twenty-one years. That on the twenty-fourth day of May, one thousand eight hundred and eight, the said Martha and Matthew agreed to a separation, and entered into articles for that purpose. That in the month of January, one thousand eight hundred and nine, the said Matthew Codd left Utica, where the said Martha and Matthew had for about six years previous resided, on a journey to various parts of the United States, but had not been domicilated in any place out of this State, and that since that time the said Martha had not seen him, nor had any direct intercourse with him, nor received from him, either directly or indirectly, any money. That the said Matthew Codd had lately threatened to seize and remove their said children, and to seize the papers, furniture and other necessaries of the said Martha, and that the said Matthew, with a view to encumber her property and embarrass her titles, threatened to make leases and conveyances thereof, and that he had actually executed some instrument relating to or affecting the same.

And the said bill also stated that the said Matthew had in numerous instances, both before and since their said separation, committed adultery as well in this State as elsewhere within the United States, and particularly, that on or about the fourth day of June, one thousand eight hundred, at the city of New York, the said Matthew committed adultery with Catharine Ratekin; the said Martha being at the time of their said separation utterly ignorant that the said Matthew Codd had theretofore been guilty of adultery. For remedy whereof or for relief wherein, and to have an answer of the said Matthew in the manner prescribed by law to the several

charges aforesaid, and amongst other things that the marriage aforesaid might be dissolved, and that she might be restored to her rights and property, and might have the exclusive custody, care and management of her said children; the complainant, the said Martha, prayed the aid and assistance of this court and process of subpœna to be awarded against the said defendant, to appear in this court and answer the premises. Which being granted, and the defendant therewith served, he appeared accordingly and answered the said bill, and the defendant by his answer admitted that he and the complainant intermarried in the year and at the place for that purpose stated in the said bill; that he and the complainant came to this State for the purpose mentioned in the said bill, and that they have been and still are inhabitants of the same and residents therein; and the said defendant in and by his said answer denied that he had in any instance since his said marriage committed adultery with any persons whatever, but had always been and yet was faithful and affectionate to the complainant.

Whereupon, on the coming in of the said answer, this court did, by virtue of the authority in it vested, and pursuant to the statute in such case made and provided, on the twenty-eighth day of February last past, make its order in this behalf between the parties aforesaid, and thereby direct that a feigned issue should be made up and joined for the trial of the fact of adultery charged by the complainant in her said bill, and denied by the defendant in his said answer, and that the said issue should be tried at the then next sittings appointed to be holden in and for the city and county of New York, but that no evidence of the confession of the defendant in maintenance of the said issue should be received at the trial thereof. And now the record of the trial of the said issue being returned into this court, and the said cause so standing in this court coming on to be heard this day in the presence of counsel learned on both sides, the substance of the complainant's bill and the defendant's answer thereunto, and of the order aforesaid, appeared to be as is before recited.

Whereupon, and *and* upon debating the matter and hearing what could be alleged by the counsel on both sides, it appeared to this court satisfactorily, by the trial of the issue aforesaid, that the defendant had been guilty of the adultery charged in the said bill, and the complainant hereupon producing to this court here the certificate of the judge before whom the said issue was tried, that no evidence of the confession of the defendant was received at the trial of the said issue in the maintenance thereof, and that the verdict was supported by proof without confession of the party charged; on the motion of A. Burr, of counsel for the said complainant, this court doth, by virtue of the power and authority in it vested, and pursuant to the statute in such case made and provided, order, adjudge and decree that the marriage between the parties in this cause be dissolved, and each party freed from the obligations

thereof. And it is further ordered, adjudged and decreed, by virtue of the power and authority aforesaid, and pursuant to the statute in such case made and provided, that the said complainant have the exclusive custody, care and control of the children of the said marriage, and that the said defendant do forthwith deliver over to the complainant, or to her solicitor or attorney legally authorised, all deeds, patents, agreements, leases and counterparts of leases, papers and evidences of title, which do or may relate to, or concern any lands which belonged to the complainant at the time of their marriage, or which have descended to or devolved upon her, or have been acquired by her or for her use at any time since; and also all books of account, papers and vouchers, which do or may in any way concern the goods or chattels or choses in action which were left with her by her husband, or which she may have acquired by her own industry, or which may have been given to her by devise or otherwise, or may have come to her, or to which she may be entitled by the decease of any relative intestate. And it is further ordered that the defendant pay to the complainant the costs of this suit to be taxed.

All which we have caused by these presents to be exemplified, and the seal of our said court of chancery to be hereunto affixed. Witness, James Kent, Esquire, chancellor of our said State at the City of Albany, on the fourteenth of day July, in the year of our Lord one thousand eight hundred and seventeen, and of the independence of the United States of America the forty-second.

ISAAC L. KIP, *Assistant Register.*"

Endorsed.

District Court, U. S. N D. N. Y.

Martha Bradstreet, *Demandant*,
vs.
William F. Potter, *Tenant*.

Bill of Exceptions—Martha Bradstreet in proper person.
Filed Dec. 22, 1840.

Supreme Court of the United States, (In error.)

Martha Bradstreet, *Demandant*,
vs.
William F. Potter, *Tenant*.
} Of the Term of January, in the year of our Lord one thousand eight hundred and forty.

Afterwards, to wit, on the second Monday of January in this same term, before the Supreme Court of the United States, comes the said Martha Bradstreet, by John L. Tillinghast her attorney, and says that in the record and proceedings aforesaid, and also in giving the judgment aforesaid, there is manifest error in this, to wit, that the pleas aforesaid and the matters therein contained are not sufficient in law to bar or preclude the said Martha Bradstreet from

having and maintaining her aforesaid action thereof against the said William F. Potter. There is also error in this, to wit, that by the record aforesaid, it appears that the judgment aforesaid in form aforesaid given, was given for the said William F. Potter, against the said Martha Bradstreet; whereas by the law of the land the said judgment ought to have been given for the said Martha Bradstreet against the said William F. Potter. And the said Martha Bradstreet prays that the judgment aforesaid, for the errors aforesaid, and other errors in the record and proceedings aforesaid, may be reversed, annulled and altogether held for nothing, and that she may be restored to all things which she hath lost by occasion of the said judgment.

JOHN L. TILLINGHAST,
Attorney and of Counsel for Demandant.

(Endorsed.)

SUPREME COURT OF UNITED STATES.

MARTHA BRADSTREET, *Demandant*,
vs.
WILLIAM F. POTTER, *Tenant*.

Assignment of Errors—JOHN L. TILLINGHAST, *Attorney*.
Received this 22nd. day of December, 1840.

ANSON LITTLE,
Clerk of the Northern District of New York.

Filed Decr. 22, 1840.

SUPREME COURT OF THE UNITED STATES.

MARTHA BRADSTREET, *Demandant*,
vs.
WILLIAM F. POTTER, *Tenant*.

UNITED STATES OF AMERICA,
Northern District of New York, ss:

Martha Bradstreet being duly sworn, deposes and says, that she did, on the twenty-second day of December instant, lodge a copy of the writ of errors in this cause, in the office of the clerk of the District Court of the United States of America for the Northern District of New York, for the said William F. Potter, (the tenant in this suit,) and further says not.

MARTHA BRADSTREET.

Subscribed and sworn to, this 22nd. day of December, A. D. 1840, before me,

ANSON LITTLE, *Clerk*
and Commissioner to take affidavits in the District Court of the U. S. for the Northern District of New York.

Filed 20th February, 1841.